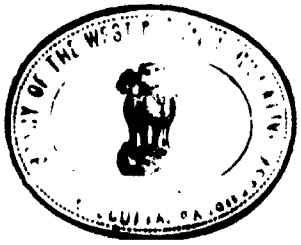

XL No. 1

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Bengal Legislative Council

Fortieth Session, 1932

21st to 25th November, 1932

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GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

His Excellency Colonel the Right Hon'ble Sir JOHN ANDERSON, P.C., G.C.B., G.C.I.E.

MEMBERS OF THE EXECUTIVE COUNCIL.

The Hon'ble Sir PROVASH CHUNDER MITTER, KT., C.I.E., in charge of the following portfolios:—

1. Land Revenue.
2. Land Acquisition.
3. Excluded Areas.
4. Jails.
5. Legislative.

The Hon'ble Alhadj Sir ABDELKERIM GHUSNAVI, KT., in charge of the following portfolios:—

1. Emigration.
2. Immigration.
3. Jurisdiction.
4. Haj Pilgrimage.
5. Forests.
6. Irrigation.

The Hon'ble Mr. J. A. WOODHEAD, C.I.E., I.C.S., in charge of the following portfolios:—

1. Finance.
2. Separate Revenue.
3. Commerce and Industrial subjects.
4. Marine.
5. European Education.

The Hon'ble Mr. W. D. R. PRENTICE, C.S.I., C.I.E., I.C.S., in charge of the following portfolios:—

1. Appointment.
2. Political, excluding Haj Pilgrimage.
3. Police.
4. Ecclesiastical.
5. Regulation of medical and other professional qualifications and standards, subject to legislation by the Indian Legislature.
6. Judicial.
7. Hazaribagh Reformatory School.

MINISTERS.

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur, in charge of the following portfolios:—

1. Agriculture and Industries (excluding Excise).
2. Public Works.

The Hon'ble Mr. KHWAJA NAZIMUDDIN, C.I.E., in charge of the following portfolios:—

1. Education.
2. Registration.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY, in charge of the following portfolios:—

1. Local Self-Government.
2. Excise.

PRINCIPAL OFFICERS OF THE BENGAL LEGISLATIVE COUNCIL.

PRESIDENT.

The Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh.

DEPUTY PRESIDENT.

MR. RAZAUR RAHMAN KHAN, B.L.

Panel of Chairmen for the Fortieth Session.

1. Mr. B. C. CHATTERJEE, Bar.-at-Law.
2. Khan Bahadur Maulvi AZIZUL HAQUE.
3. Mr. W. H. THOMPSON.
4. MR. NARENDRA KUMAR BASU.

Secretary to the Council—J. W. McKAY, I.S.O.

Assistant Secretary to the Council—[Vacant.]

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

Asal, Nawabzada Khwaja Muhammad, Khan Bahadur. [Dacca City (Muhammadan).]
Ali, Maulvi Hassan. [Dinajpur (Muhammadan).]
Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
Ali, Mr. Altaf. [Bogra (Muhammadan).]
Armstrong, Mr. W. L. [Presidency and Burdwan (European).]
Austin, Mr. J. M. (Bengal Chamber of Commerce.)

B

Baksh, Maulvi Shaikh Rahim. [Hooghly *cum* Howrah Municipal (Muhammadan).]
Baksh, Maulvi Syed Majid. [Jessore North (Muhammadan).]
Bal, Babu Lalit Kumar. [Bakarganj South (Non-Muhammadan).]
Bal, Rai Sahib Sarat Chandra. [Faridpur South (Non-Muhammadan).]
Ballabh, Rai Bahadur Debendra Nath. [24-Parganas Rural North (Non-Muhammadan).]
Banerji, Mr. P. [24-Parganas Rural South (Non-Muhammadan).]
Banerji, Rai Bahadur Keshab Chandra. [Dacca Rural (Non-Muhammadan).]
Bannerjee, Babu Jitendralal. [Birbhum (Non-Muhammadan).]
Barma, Rai Sahib Panchanan, M.B.E. [Rangpur West (Non-Muhammadan).]
Basir Uddin, Khan Sahib Maulvi Mohammed. [Rajshahi North (Muhammadan).]
Basu, Babu Jatindra Nath. [Calcutta North (Non-Muhammadan).
Basu, Mr. Narendra Kumar. [Nadia (Non-Muhammadan).]
Birkmyre, Mr. H. (Bengal Chamber of Commerce.)
Blandy, Mr. E. N. (Nominated Official.)
Bose, Mr S. M., Bar.-at-Law. [Calcutta East (Non-Muhammadan).]
Bural, Babu Gokul Chand. [Calcutta South Central (Non-Muhammadan).]
Burn, Mr. H. H. (Bengal Chamber of Commerce.)

C

Chatterjee, Mr. B. C., Bar.-at-Law. [Bakarganj North (Non-Muhammadan).]
Chaudhuri, Babu Kishori Mohan. [Rajshahi (Non-Muhammadan).]
Chaudhuri, Babu Siddheswar. (Expert, Nominated.)

Chaudhuri, Dr. Jogendra Chandra. [Bogra *cum* Pabna (Non-Muhammadan).]

Chaudhuri, Khan Bahadur Maulvi Alimuzzaman. [Faridpur North (Muhammadan).]

Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman. (Nominated Non-official.)

Chaudhuri, Maulvi Syed Osman Haider. [Tippera North (Muhammadan).]

Choudhury, Maulvi Nural Absar. [Chittagong North (Muhammadan).]

Chowdhury, Haji Badi Ahmed. [Chittagong South (Muhammadan).]

Chowdhury, Maulvi Abdul Ghani, B.L. [Dacca West Rural (Muhammadan).]

Cohen, Mr. D. J. (Nominated Non-official.)

Coppinger, Major General W. V., C.I.E., D.S.O., M.D., F.R.C.S.I., I.M.S. (Nominated Official.)

Cooper, Mr. C. G. (Indian Jute Mills Association.)

D

Das, Rai Bahadur Kamini Kumar, M.B.E. [Chittagong (Non-Muhammadan).]

Das, Rai Bahadur Satyendra Kumar. [Dacca City (Non-Muhammadan).]

Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

Eusufji, Maulvi Nur Rahman Khan. [Mymensingh South-West (Muhammadan).]

F

Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur. [Minister.] [Tippera South (Muhammadan).]

Fawcus, Mr. L. R. (Nominated Official.)

Fazlullah, Maulvi Muhammad. [Noakhali West (Muhammadan).]

Forrester, Mr. J. Campbell. [Presidency and Burdwan (European).]

G

Gangali, Rai Bahadur Susil Kumar. (Nominated Official.)

Ghose, Dr. Amulya Ratan. [Howrah Municipal (Non-Muhammadan).]

Ghose, Rai Bahadur Sasonka Comar, C.I.E. (Dacca University.)

Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim, KT. (Member, Executive Council).

Gilchrist, Mr. R. N. (Nominated Official.)
Goenka, Rai Bahadur Badridas, C.I.E. (Bengal Marwari Association.)
Guha, Babu Profulla Kumar. [24-Parganas Municipal North (Non-Muhammadan).]
Guha, Mr. P. N. (Nominated Non-official.)
Gupta, Mr. J. N., C.I.E., M.B.E. [Bankura West (Non-Muhammadan).]

H

Hakim, Maulvi Abdul. [Mymensingh Central (Muhammadan).]
Haque, Khan Bahadur Maulvi Azizul. [Nadia (Muhammadan).]
Henderson, Mr. A. G. R. (Nominated Official.)
Hirtzel, Mr. M. A. F. [Presidency and Burdwan (European).]
Hogg, Mr. G. P., C.I.E. (Nominated Official.)
Hooper, Mr. G. G. (Nominated Official.)
Hoqde, Kazi Emdadul. [Rangpur East (Muhammadan).]
Hosain, Nawab Musharruf, Khan Bahadur. [Malda *cum* Jalpaiguri (Muhammadan).]
Hossain, Maulvi Muhammad. [Bakarganj North (Muhammadan).]
Huq, Mr. A. K. Fazl-ul. [Bakarganj West (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

Karim, Maulvi Abdul. [Burdwan Division South (Muhammadan).]
Kasem, Maulvi Abul. [Burdwan Division North (Muhammadan).]
Khan, Khan Bahadur Maulvi Muazzam Ali. [Pabna (Muhammadan).]
Khan, Maulvi Tamizuddin. [Faridpur South (Muhammadan).]
*Khan, Mr. Razaur Rahman, B.L. [Dacca East Rural (Muhammadan).]

L

Lal Muhammad, Haji. [Rajshahi South (Muhammadan).]
Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Leeson, Mr. G. W. (Bengal Chamber of Commerce.)

M

Maguire, Mr. L. T. (Anglo-Indian.)
Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]

*Deputy President, Bengal Legislative Council.

Mason, Mr. G. A. (Indian Jute Mills Association.)
McCluskie, Mr. E. T. (Anglo-Indian.)
Mitter, the Hon'ble Sir Provash Chunder, KT., C.I.E. (Member, Executive Council.)
Mittra, Babu Sarat Chandra. [24-Parganas Rural Central (Non-Muhammadan).]
Momin, Khan Bahadur Muhammad Abdul. [Noakhali East (Muhammadan).]
Mookerjee, Mr. Syamaprosad, Bar.-at-Law. (Calcutta University.)
Mortimer, Mr. H. R. [Rajshahi (European).]
Mukherji, Rai Bahadur Satish Chandra. [Hooghly Rural (Non-Muhammadan).]
Mukhopadhaya, Rai Sahib Sarat Chandra. [Midnapore South-East (Non-Muhammadan).]
Mullick, Mr. Mukunda Behary. (Nominated Non-official.)

N

Nag, Babu Suk Lal. [Khulna (Non-Muhammadan).]
Nag, Reverend B. A. (Nominated Non-official.)
Nandy, Maharaja Sris Chandra, of Kassimbazar. (Bengal National Chamber of Commerce.)
Nazimuddin, the Hon'ble Mr. Khwaja, C.I.E. [Minister.] [Bakarganj South (Muhammadan).]
Norton, Mr. H. R. (Calcutta Trades Association.)

O

Ordish, Mr. J. E. [Dacca and Chittagong (European).]

P

Petre, Mr. B F. (Indian Mining Association.)
Philpot, Mr. H. C. V. (Nominated Official.)
Poddar, Mr. Ananda Mohan. (Bengal Mahajan Sabha.)
Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]
Prentice, the Hon'ble Mr. W. D. R., C.S.I., C.I.E. (Member, Executive Council.)

Q

Quasem, Maulvi Abul [Khulna (Muhammadan).]

R

Raheem, Mr. A., C.I.E. [Calcutta North (Muhammadan).]
Rahman, Maulvi Azizur. [Mymensingh North-West (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
Rahman, Mr. A. F. M. Abdur. [24-Parganas Rural (Muhammadan).]
Raikat, Mr. Prosanna Deb. [Jalpaiguri (Non-Muhammadan).]
Rai Mahasai, Manindra Deb. [Hooghly Municipal (Non-Muhammadan).]
Ray, Babu Amulyadhan. [Jessore South (Non-Muhammadan).]
Ray, Babu Khetter Mohan. [Tippera (Non-Muhammadan).]
Ray, Babu Nagendra Narayan, B.L. [Rangpur East (Non-Muhammadan).]
Ray, Kumar Shib Shekhareswar. (Rajshahi Landholders.)
Ray, Maharaja Jagadish Nath, of Dinajpur. [Dinajpur (Non-Muhammadan).]
Ray, Mr. Shanti Shekhareswar, M.A. [Malda (Non-Muhammadan).]
*Ray Chaudhuri, the Hon'ble Raja Sir Manmatha Nath, KT., of Santosh. (Dacca Landholders.)
Ray Chowdhury, Babu Satish Chandra. [Mymensingh East (Non-(Muhammadan).]
Ray Chowdhury, Mr. K. C. (Nominated Non-official.)
Reid, Mr. R. N., C.I.E. (Nominated Official.)
Ross, Mr. J. (Indian Tea Association.)
Rout, Babu Hoseni. [Midnapore North (Non-Muhammadan).]
Roy, Babu Haribansa. [Howrah Rural (Non-Muhammadan).]
Roy, Babu Jitendra Nath. [Jessore North (Non-Muhammadan).]
Roy, Babu Satyendra Nath. [24-Parganas Municipal South (Non-Muhammadan).]
Roy, Mr. Saileswar Singh. [Burdwan North (Non-Muhammadan).]
Roy, Mr. Sarat Kumar. (Presidency Landholders.)
Roy, the Hon'ble Mr. Bijoy Prasad Singh. [Minister.] [Burdwan South (Non-Muhammadan).]
Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
Sahana, Babu Satya Kinkar. [Bankura East (Non-Muhammadan).]
Samad, Maulvi Abdus. [Murshidabad (Muhammadan).]
Sarker, Rai Sahib Rebati Mohan. (Nominated Non-official.)
Sen, Mr. B. R. (Nominated Official.)

* President of the Bengal Legislative Council.

Sen, Rai Sahib Akshoy Kumar. [Faridpur North (Non-Muhammadan).]
Sen Gupta, Dr. Naresh Chandra. [Mymensingh West (Non-Muhammadan).]
Shah, Maulvi Abdul Hamid. [Mymensingh East (Muhammadan).]
Singha, Mr. Arun Chandra. (Chittagong Landholders.)
Singh, Srijut Taj Bahadur. [Murshidabad (Non-Muhammadan).]
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. (Burdwan Landholders).]
Sircar, Dr. Sir Nilratan, KT., M.D. [Calcutta South (Non-Muhammadan).]
Solaiman, Maulvi Muhammad. [Barrackpore Municipal (Muhammadan).]
Stapleton, Mr. H. E. (Nominated Official.)
Suhrawardy, Mr. H. S. [Calcutta South (Muhammadan).]

T

Thompson, Mr. W. H. (Bengal Chamber of Commerce.)
Townend, Mr. H. P. V. (Nominated Official.)

W

Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
Woodhead, the Hon'ble Mr. J. A., C.I.E. (Member, Executive Council.)
Wordsworth, Mr. W. C. (Bengal Chamber of Commerce.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Fortieth Session.)

Volume XL No. 1.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 21st November, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, two Hon'ble Ministers (the Hon'ble Mr K. Nazimuddin being absent) and 100 nominated and elected members.

Oath or affirmation.

The following members made an oath or affirmation of their allegiance to the Crown:—

(1) Mr. G. P. Hogg, I.C.S.
(2) Mr. R. N. Reid, I.C.S.
(3) Maulvi Abul Quasem.
(4) Mr. G. G. Hooper, I.C.S.
(5) Mr. G. C. Sen.

Panel of Chairmen.

Mr. PRESIDENT: In accordance with the provisions of rule 3 of the Bengal Legislative Council Rules, 1920, I nominate the following members of the Council to form a panel of four Chairmen for the ensuing session:—

(1) Mr. B. C. Chatterjee, Bar.-at-Law.
(2) Khan Bahadur Maulvi Azizul Haque.
(3) Mr. W. H. Thompson.
(4) Mr. Narendra Kumar Basu.

Unless otherwise arranged, the senior member among them present in the above order will preside over the deliberations of this Council in my absence and in the absence of the Deputy President.

Obituary References.

Mr. PRESIDENT: Gentlemen, it is my melancholy duty, in accordance with the practice established by this House, to refer to-day to the deaths of Rai Jadu Nath Majumdar Bahadur, C.I.E., of Jessore, and Maulvi Khandkar Arhamuddin of Tangail.

The late Rai Bahadur who was a member of this Council from 1927 to 1929 and a member of the Legislative Assembly from 1921 to 1923, was a very well known public man and was the first non-official Chairman of the Jessore District Board. In recognition of his public services he was made a Rai Bahadur in 1902, a C.I.E. in 1922 and he was the recipient of the Kaiser-i-Hind Medal in 1913. In his death we mourn the loss of a man whose activities extended to various spheres of public benefit.

Maulvi Khandkar Arhamuddin, who was a member of this Council from 1921 to 1923, was a very popular figure in Tangail and looked up to with esteem by the Hindus and the Muhammadans alike. He was long connected with the local municipality and the local board of Tangail and served both the bodies as Chairman and Vice-Chairman for several years. He was the leading spirit in all Moslem activities of the Tangail subdivision and was one of the founders of the local Anjuman-Islamia. His death is an irreparable loss to the people of the subdivision.

With your leave, gentlemen, the sympathy of this House may be conveyed to the bereaved families.

I will now ask you to give your consent by kindly rising in your places.

[Pause.]

(All the members then rose in their places.)

Mr. PRESIDENT: Thank you, gentlemen, the Secretary will take the necessary action.

STARRED QUESTIONS.

(to which oral answers were given).

Part-free studentship for the Post-Graduate students of the Presidency College.

*1. **Maulvi SYED MAJID BAKSH:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing year by year for the last five years—

(*i*) how many part-free studentships were there for the Post-Graduate students attached to the Presidency College, Calcutta;

(ii) how many Moslem students were in [redacted] classes attached to the Presidency College, Calcutta; and

(iii) how many Moslem students in the Post-Graduate classes attached to the Presidency College were granted part-free studentships?

(*b*) What is the rate of fees for the M.A. and M.Sc. classes of the Presidency College, Calcutta, for the last year and this year?

(*c*) Is the Hon'ble Minister aware of the rate of such fees that obtains in the University of Calcutta?

(*d*) Is the Governing Body of the Presidency College, Calcutta, the final authority for the grant of part-free studentships every year?

SECRETARY to the GOVERNMENT, EDUCATION DEPARTMENT (Mr. H. R. Wilkinson): (*a*) A statement is laid on the table.

(*b*) *Presidency College*—

M.A.—Rs. 17.
M.Sc.—Rs. 18.

(*c*) *Calcutta University*—

M.A.—Rs. 10.
M.Sc.—Rs. 12.
(Applied Mathematics)—Rs. 10.

(*d*) Yes.

Statement referred to in the reply to clause (a) of starred question No. 1, showing part-free studentship of the Presidency College.

(*a*) (*i*) 15 part-free studentships (General) of the value of Rs. 8 each, each year.

(*ii*)

1927-28	...	14
1928-29	...	11
1929-30	...	8
1930-31	...	11
1931-32	...	14

(*iii*)

1929-30	...	1
1930-31	...	1
1931-32	...	2

Maulvi ABDUL KARIM: Will the Hon'ble Minister be pleased to state with reference to answer (*a*) (*i*) why although there were 14 students in 1927-28 and 1928-29 not a single free studentship was awarded?

Mr. H. R. WILKINSON: I presume that the Governing Body did not think that there was any suitable Muhammadan student who could be given a free studentship.

Maulvi ABDUL KARIM: Am I to understand that there was not a single deserving student in those two years?

Mr. H. R. WILKINSON: I presume the Governing Body did not think that the Muhammadan students were as deserving as the Hindu students.

Maulvi ABDUL KARIM: Will the Hon'ble Minister be pleased to inquire what were the conditions under which these free studentships were awarded and why in these two years none were awarded?

Mr. H. R. WILKINSON: I will inquire.

Bankura Electrical Licence.

*2. **Babu SATYA KINKAR SAHANA:** (*a*) Will the Hon'ble Member in charge of the Commerce Department be pleased to state what steps, if any, have been taken for the supply of electrical power in the town of Bankura?

(*b*) Has any firm been given the contract for the purpose?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state (*i*) the time-limit within which the contracting firm is to begin the work; and (*ii*) what steps, if any, the Government are proposing to take for the fulfilment of the contract?

MEMBER in charge of COMMERCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) Several parties have approached Government with a view to being granted a license to supply electricity to the town of Bankura, and the application which has been considered most suitable is being examined with a view to granting a license as early as possible.

(*b*) and (*c*) No contract is granted by Government for the purpose. Under the Indian Electricity Act, Government grant licenses to supply electrical energy, and the licensees make their own contracts. The

...al time stipulated in licenses for the completion of compulsory ...rks by licensees is three years, and if a licensee fails to complete his ...ligations within the stipulated period, the license is liable to revocation by Government.

Terrorist movement and house searches.

*3. **Mr. SHANTI SHEKHARESWAR RAY:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state the number of houses searched by the police in—

(*1*) Calcutta, and

(*2*) in other towns in Bengal,

in connection with the terrorist movement during 1932?

(*b*) In how many cases did the search prove fruitless?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) and (*b*) The information required for an answer to this question is not available and could not be obtained without a laborious inquiry which Government regret they are not prepared to undertake.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if any record is kept of such searches?

The Hon'ble Mr. W. D. R. PRENTICE: Yes, in various districts.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if any record so far as Calcutta is concerned is kept in the office of the Commissioner of Police?

The Hon'ble Mr. W. D. R. PRENTICE: I expect so.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the Government made any inquiries from the Commissioner of Police in this connection?

The Hon'ble Mr. W. D. R. PRENTICE: I would refer the hon'ble member to my answer.

Sir. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state how the Government knew that the information required for this answer is not available?

The Hon'ble Mr. W. D. R. PRENTICE: I know because the subject is dealt with in my office.

Female convicts and Andamans penal settlement.

***4. Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether there is any proposal for sending from Bengal any political female prisoners to the Andamans penal settlement?

(*b*) If so, what are the reasons therefor?

(*c*) Is it a fact that the place was condemned by the last Jail Commission as unfit and undesirable and the view was accepted by the authorities?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) Not at present.

(*b*) Does not arise.

(*c*) The Indian Jails Committee in 1919-20 recommended that deportation to the Andamans should cease, except in regard to specially dangerous prisoners and any others whose removal from Indian jails is considered by the Government to be in the public interest, and this was accepted by Government.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to state what is meant by "public interest" in answer to (*c*)?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have nothing further to add.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to state what is meant by "dangerous prisoners"?

The Hon'ble Sir PROVASH CHUNDER MITTER: The meaning is quite clear.

Female convicts and A[illegible] penal settlement.

*5. **Dr. AMULYA RATAN GHOSE:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that women convicts for political offences have been sent to the Andamans from Bengal?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to lay on the table a statement showing—

(*i*) names, (*ii*) social status, and (*iii*) the nature of offences for which they are convicted?

(*c*) How many more such convicts are, in the contemplation of Government, to be sent to the Andamans?

(*d*) Is the Hon'ble Member aware of a feeling that exists in the minds of the people against the sending of women prisoners to the Andamans?

(*e*) If the answer to (*d*) is in the affirmative, are the Government considering the desirability of taking steps in the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) No.

(*b*) Does not arise.

(*c*) Government do not at present contemplate sending any female convicts to the Andamans.

(*d*) Government are aware that some people hold views on this question.

(*e*) Does not arise.

Dr. AMULYA RATAN GHOSE: Will the Hon'ble Member be pleased to state with reference to answer (*d*) whether the views were either in favour or against the proposal?

The Hon'ble Sir PROVASH CHUNDER MITTER: At present some people hold views against and some in favour of the proposal.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the Jails Committee did not recommend that female convicts should not be sent to the Andamans?

The Hon'ble Sir PROVASH CHUNDER MITTER: I would refer the member to answer (*c*) to the previous question and to the report of the Jails Committee.

Babu HEM CHANDRA ROY CHOUDHURI: Is there any proposal before Government to send female convicts to the Andamans?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have nothing further to add.

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Member in a position to name any person who holds the view that female convicts should be sent to the Andamans?

The Hon'ble Sir PROVASH CHUNDER MITTER: I can name many, but I do not propose to do so now.

Retrenchment Committee Report.

*6. **Mr. S. M. BOSE:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state whether the Report of the Swan Retrenchment Committee has been submitted? If so, when?

(*b*) What is the total approximate estimated saving recommended by the Committee?

(*c*) What steps have the Government taken or are they taking to give effect to the recommendations of the Committee?

(*d*) When will the report be published?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) The report as finally published was received by Government on the 10th November, 1932, and was distributed to members of this Council on the 15th November, 1932.

(*b*) The estimated savings are non-recurring Rs. 90,000, recurring Rs. 1,80,37,700, with increase in revenue of Rs. 2,56,300 *plus* Rs. 1,12,000 for 5 years.

(*c*) The recommendations are being examined.

(*d*) Does not arise.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state whether the budget for 1933-34 will be framed in accordance with the recommendations of the Retrenchment Committee?

The Hon'ble Mr. J. A. WOODHEAD: I cannot anticipate the decision of Government on all the recommendations of the Retrenchment Committee.

Mr. NARENDRA KUMAR BASU: Does the Hon'ble Member propose to consult the members of this House on the recommendations of the Retrenchment Committee?

The Hon'ble Mr. J. A. WOODHEAD: I must ask for notice of that question, Sir. (Laughter.)

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to say when Government expect to come to a conclusion with regard to the recommendations of the Retrenchment Committee?

The Hon'ble Mr. J. A. WOODHEAD: As soon as they possibly can.

Rai Bahadur KESHAB CHANDRA BANERJI: Will it be before the framing of the next budget?

The Hon'ble Mr. J. A. WOODHEAD: It is impossible to say now when Government will be able to come to a conclusion on all the recommendations of the Committee. All that I can say is that they will be examined as soon as possible.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Member be pleased to state if there is any possibility of giving effect to some of the recommendations of the Retrenchment Committee?

The Hon'ble Mr. J. A. WOODHEAD: Yes, Sir, I believe so. Some recommendations have already been accepted.

Ottawa Conference and economic prospects of Bengal.

*7. **Dr. NARESH CHANDRA SEN GUPTA:** (*a*) Will the Hon'ble Member in charge of the Commerce Department be pleased to state whether the Government of Bengal were consulted before or since the Ottawa Conference on proposals bearing on the decisions arrived at in the Conference with special reference to the effect of the proposals on the economic prospects of Bengal?

(*b*) If so, did the Government take any steps to ascertain non-official views on the matter before making their recommendations to the Government of India?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) The Government of Bengal were not consulted on proposals bearing on the decisions arrived at in the Ottawa Conference.

(*b*) This question does not arise.

Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether any Government, within the knowledge of the Bengal Government, was consulted in the matter?

The Hon'ble Mr. J. A. WOODHEAD: Not so far as I am aware.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state whether Government have examined the effect of these proposals on the economic prospects of Bengal?

The Hon'ble Mr. J. A. WOODHEAD: No, Sir.

Faridpur railway station.

*8. **Rai Sahib AKSHOY KUMAR SEN:** (*a*) Is the Hon'ble Member in charge of the Public Works (Railways) Department aware—

(*i*) that His Excellency Sir Stanley Jackson, late Governor of Bengal, during his visit to the town of Faridpur, in reply to the addresses given to him by the local bodies of Faridpur, declared that the present railway station at Faridpur was quite unfit for a district town like Faridpur; and

(*ii*) that money would be provided in the budget for the year 1930 for the construction of a suitable railway station at Faridpur?

(*b*) Are the Government considering the desirability of constructing a suitable railway station at Faridpur?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) and (*ii*) Yes.

(*b*) The member is referred to the reply given to (*b*) and (*c*) of starred question No. 62 at the August session of the Council.

Civil disobedience prisoners.

*9. **Dr. AMULYA RATAN GHOSE:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether,

according to the existing rules and standing orders of the Jail administration in Bengal, an ordinary sepoy or a convict overseer can take an offending prisoner to the cell and assault him without the knowledge of or without the order from the Superintendent or the Jailor?

(*b*) Is it a fact that ordinary sepoys and convict overseers in the Hijli Special Jail do often take civil disobedience prisoners to the cells and mercilessly beat them with the help of ordinary convicts, even without the knowledge of the Superintendent or the Jailor?

(*c*) Is it a fact that in the Hijli Special Jail, Babu Guru Das Dutt of Howrah, who was a Division I prisoner during the last movement, was taken to the cells and beaten by an ordinary convict with red-arm-band without the knowledge of the Superintendent or the Jailor? If so, for what reason?

(*d*) Is it a fact that Netai Chandra Mondal (now transferred to the Midnapore Jail) has gone mad?

(*e*) If the answer to (*d*) is in the affirmative, will the Hon'ble Member be pleased to state whether this was due to any maltreatment when he was in the Hijli Special Jail?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*), (*b*) and (*c*) No.

(*d*) It is reported that Netai Kaibarta was showing signs of insanity when he was transferred from Hijli Additional Special Jail to Midnapore Central Jail on 9th August, 1932. He was released on the 1st September, and handed over to a relative much improved by treatment.

(*e*) No.

Professor Bejoy Krishna Bhattacharjee in Dum-Dum Jail.

*10. **Dr. AMULYA RATAN GHOSE:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that Professor Bejoy Krishna Bhattacharjee, a Division II prisoner in the Dum-Dum Special Jail, is suffering from sciatica?

(*b*) If the answer to (*a*) is in the affirmative, will he be pleased to state the date since when he is suffering?

(*c*) Has he been put into hospital for treatment?

(*d*) If so, how long ago was this and with what result?

(*c*) Will the Hon'ble Member be pleased to state whether the Government—

(*i*) will be prepared to allow any qualified doctor interested in the health of the prisoner to see the prisoner; or

(*ii*) whether the Government will allow the questioner to go to the jail to see the prisoner without the restriction of interviewing through wire-nets?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) and (*b*) No, but the prisoner is suffering since February, 1932, from a vague neuralgic pain in the lumbro-sacral region of the back.

(*c*) Yes.

(*d*) Since 10th November, 1932. The treatment has not made any appreciable difference, but the affection is not of a serious nature; examination has not revealed any abnormality which requires special treatment. His general health is good.

(*e*) (*i*) It is not considered necessary to allow an outside doctor to see the prisoner.

(*ii*) Government are not prepared to relax the standing rules regarding interviews.

Mr. R. MAITI: Will the Hon'ble Member be pleased to state, with reference to answers (*a*) and (*b*), what he means by "vague neuralgic pain"?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is the medical term used by the medical officers, and not being a medical man I can not explain what it means.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Malda district.

1. **Mr. SHANTI SHEKHARESWAR RAY:** Will the Hon'ble Member in charge of the Political Department be pleased to state whether the Government are considering any proposal for amalgamating the Malda district or any part of the district with any other district?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): No.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state what he means by the answer "no": does he mean that Government have no answer to give or that they do not propose to answer?

The Hon'ble Mr. W. D. R. PRENTICE: I would refer the member to the question, which inquires whether Government are considering any proposal, etc. The answer is that Government are not considering.

Bengali prisoners transported to the Andamans.

2. Mr. SHANTI SHEKHARESWAR RAY: (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to lay on the table a statement showing for the years 1929, 1930, 1931 and 1932 the number of Bengali prisoners removed from Bengal to the Andamans?

(*b*) How many among those persons were convicted by Special Tribunals?

(*c*) How many female prisoners belonging to the *bhadralok* class have been removed to the Andamans from Bengal during the period?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*), (*b*) and (*c*) A statement giving the information is laid on the table.

Statement referred to in answer to unstarred question No. 2.

(*a*) Number of prisoners sent to Andamans from Bengal in—	(*b*) Number of them convicted by Special Tribunals in—	(*c*) Number of "bhadralok" female prisoners sent in—
1929—4. 1930—37. 1931—64. 1932—82 (up to 14th November, 1932). (Except 23 prisoners sent in 1932, all the prisoners volunteered to go there as colonists).	1929, 1930, 1931—Nil. 1932—19.	1929 to 1932—Nil.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the Government of Bengal have accepted the principle of sending female convicts to the Andamans?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have nothing further to add to what I have already said.

NON-OFFICIAL BUSINESS

RESOLUTIONS

(on matters of general public interest).

Realisation of road and public works cesses of rent-free lands.

(Raja Bhupendra Narayan Sinha Bahadur, of Nashipur, was called upon to move his resolution).

Maharaja JAGADISH NATH RAY, of Dinajpur: Sir, I have given notice of an almost identical motion (No. 16). As the Raja Bahadur is not here, I beg permission to move the resolution standing in his name.

Mr. PRESIDENT: You can move resolution No. 1 as your own resolution.

Maharaja JAGADISH NATH RAY, of Dinajpur: Mr. President, Sir, I beg to move that this Council recommends to the Government that the *zamindars* be relieved from the duty of realising road and public works cesses of the rent-free lands and the former practice of their realisation by the Collectors be revived.

I do not think we need say much on the propriety of the resolution at this time of the day. It is neither a new suggestion nor should it require great elaboration to bring home to our brother members how the system has worked havoc among the big proprietors as well as middle-class men, and how it has also proved to be a source of discord between landlords and tenants. As it is a familiar matter with most of the members here, our Government, too, ought never to be surprised at our bringing forward this question in spite of the fact that the Bengal (Rural) Primary Education Act, which had had the *imprimatur* of the Council only two years ago was only a second edition of the Cess Act, IX of 1880. Need I say that my reference to the same Education Act is due to the most unjust burden laid on the shoulders of the land-holders by the provisions thereof? But that was done at the commencement of the very critical times in the full midst of which we find ourselves now. I am afraid that it was never anticipated by the many patriots in this Council that the Education Act would remain a dead letter, at least up to this day, notwithstanding occasional efforts on their part to resuscitate it. I can never think that the Government could not understand that the cloud that was no bigger than a man's hand at that time would assume such gigantic proportions as have darkened the sky to-day. Anyhow, it is far from my intention to irritate in the least anybody here or outside by raking up the past. I make on the other

hand a fervent appeal to the powers that be as well as to my brethren, official and non-official, to be fully alive to the dismal situation that the system of realising the cess complained of in my resolution has brought about in the country. I know that there are hard practical difficulties to be met with, even if all the authorities concerned deem it wise or even expedient to reverse the system and find out other ways in its stead.

Sir, I realize fully that some of my friends here might get startled at the enormity of the suggestion I should like to make, but for a grave malady the remedy prescribed must also be necessarily brave. The word "revolution" has a bad odour about it; but if I may use the term I am definitely of opinion that nothing but a revolutionary step in this respect will be able to set right the position at this late hour of the day. I am sure that if some other arrangement can be made for the realisation of the cesses the Government will see better days so far as their revenue is concerned, the landholders will be relieved to a very great extent and there will without doubt ensue a time of greater peace and harmony between landlords and tenants. I am not unaware that the proceeds of the road cess in each district are paid into the District Road Fund of such district and the proceeds of the public works cess are utilised in other ways. But the collection and apportionment of cesses being done by the Tauzi Department of the District Collectorate along with land revenue, the landholders have to look upon it practically as a part of the revenue that they are to deliver *kist* by *kist*. The vigour with which the cesses are realized puts almost an equal amount of rigour on the landholders as the sunset law has ever done.

The Hon'ble Sir PROVASH CHUNDER MITTER: On a point of order, Sir. This resolution deals with collection of cesses of rent-free lands, and resolution No. 16 deals with the amendment of the Cess Act. I am not objecting to the Maharaja Bahadur speaking on the Cess Act, but I am simply pointing out that in case that resolution is allowed to be moved, these matters may not be brought forward again.

Maharaja JAGADISH NATH RAY, of Dinajpur: But the practice recently initiated in some districts to realise all the cesses with interest along with the arrear Government revenue has upset them altogether and is creating the greatest disaster among them.

Sir, it is not unknown to anybody that while the tenants generally paid their quota of cesses irregularly and did even sometimes stop payment the landholders could never do without paying them at regular points of time. True it is that the landholders also were getting into arrears for some time even in this respect, but they could never be indifferent to the fact that the interest charged thereon was a severe burden in addition. The rate of interest on cess arrears is of course fixed by section 45 of the Cess Act and section 16(*a*) of the Public

Demands Recovery Act. But the re-iteration of this fact in a reply of the Government to any representation for reduction of the rate, or even constant contemplation on the part of the landholders of the difficulties experienced by the district boards in cases of irregular realisation of the cess can give them no relief.

3-30 p.m.

Section 45 of the Act has it that if any instalment of the cess or part thereof is not paid within 15 days from the date when the same becomes due, the amount of such instalment or its part may be recovered with costs at any time within three years with interest at the rate of 12½ per cent. per annum. But, Sir, cannot the *zamindars* reasonably expect the privilege of this maximum time-limit being extended to them in times of stress and strain? But the Government will say that the district boards also have to carry on. At a time of extraordinary crisis when we have the opportunity, fortunately or unfortunately, to see the matter in all its bearings and aspects it is doubly incumbent on the responsible representatives of the people that no section of it is in any way badly pressed. And it is their sacred duty to see if a means could be made available by which the wrong might be righted and the Government might be lifted out of a sorry predicament.

Sir, I am undoubtedly myself interested to a great degree in the matter of the resolution, but it is not a personal question still. I have the mandate of a most influential part of my constituents to place before this Council and the Government an estimate of the appalling situation that has arisen in the country. The class of people who have loyally stood by the Government and the country in weal and woe, the contents of whose purse have supplied sinews of war to the authorities to beautify the land in various ways, and whose never-failing devotion has made it possible for the British Government to boast of their benevolent administration in this country, find themselves doomed to destruction to-day. The situation is extremely grave but it can never frighten a man who has come in possession of the wreck of a very great argosy which his ancestors, not very remote, had manned to their eternal glory, and who is well conversant with the history as to how in the year of 1798 it was completely broken up, lot by lot. Sir, my friends, therefore, must be gracious enough to overlook the person behind the motion. Owing to the low prices of the agricultural products tenants and *raiyats* are incapable of paying their due rents and cesses and in places where there is no trade or commerce worth mentioning or there is nothing of any flourishing industry the realisations from tenants are so meagre that they fall far below even the stipulated Government revenue to be delivered by the *zamindars*. The issues of the Government Gazette will show the huge number of defaulting landholders and that

it is increasing by leaps and bounds every *kist*. Now think of a district in which even the biggest *zamindar* has to pay about 50 per cent. of the nett collection as revenue! My point is—why then sacrifice them in this way for no fault of theirs?

My voice is too weak to send a thrill in the hearts of my brothers and I have not the powers to give here a lurid picture of the harrowing position. But I hope the numerous questions that have been asked in Council, session after session, regarding the number of estates brought under the hammer on account of their default in revenue and cesses have made the way easy for me to approach them to-day. My friend the Hon'ble Member in charge of Land Revenue stated in answer to a question last August that in Khulna alone 377 *tauzis* and 402 separate accounts failed to pay up the cesses in the first six months of this year, and as many as seven *tauzis* and four estates were sold on that account. If this be the tale of a district like Khulna could not my friends make a rough estimate of the position in the entire Province? I am, however, cocksure that had it been the case of paying the quota of cess on their own account only none of the unfortunate landholders would have to look so small as that.

Sir, we have it in section 41 of the Cess Act that every holder of an estate pays yearly the entire amount of the road and public works cesses calculated on the annual value of the land comprised in such estate, at the rate or rates which may have been determined for such cesses respectively for the year, less a deduction calculated at one-half of the said rates for every rupee of the revenue entered in the valuation roll of such estate as payable in respect thereof. The annual value is calculated either on the total rent of the cultivators or on the rent paid by the person in use or occupation thereof, and in all cases where the latter exceeds the former it is adopted as the annual value. The total amount of cess payable to Government at one anna per rupee amounts, in the case of a *zamindar* paying Government revenue of Rs. 1,000, to 1,500 annas, provided he gets Rs. 2,000 or Rs. 1,500 from the *patnidar* and provided the latter in his turn gets Rs. 1,500 or Rs. 2,000 from the *raiyat*. The *patnidar* delivers 1,250 annas when he receives 1,000 annas from the *raiyat* and he has to pay 1,000 annas when the *raiyat* pays 750 annas. Thus the *zamindar* has to pay nett 250 annas from his pocket in the former case and 500 annas in the latter. Now where the *raiyat* pays more the *zamindar* pays somewhat less, although the position of Government is never affected. Consider now what a cess valuation and its revaluation means—valuations and re-valuations in an unending succession! Contemplate for a moment what an inroad has been made thereby on the much-abused Permanet Settlement! And think twice again the cases of those on whom the incidence of land revenue is ten times heavier than usual. May I, sir, in addition to all this bring to the notice of my friends that the Bengal Cess Manual of 1919 makes

mention, in a note under section 99, of a High Court ruling that a sum due on account of cesses under the Act is a *personal debt* after all. The duties the landholders owe to the Government, the tenants, the outside public, the poor and the distressed, their own friends and relations, and their household deities are all as pressing and as heavy as the personal debts they are laid under through this Act, IX of 1880. And still they are ever on evil tongues!

Sir, the time has now come to think of their pitiable state and I sound a solemn warning to-day that if their position in the country is not bettered, if they are not relieved of such unnecessary burdens as referred to in the resolution the country will never have the like of its former days again. Peace and concord will fly for ever. If my friends were in the know as to what are happening in the country-side, how *raiyats* are being incited to stop all kinds of payment, and how the *zamindars* are being made to fare from worse to worse day after day, much greater sympathy would have been evinced towards these people. Sir, there are many other schemes besides the Civil Disobedience-*wallah* and they are most of them going scot-free even to-day.

My cry may be a cry in the wilderness; it may not move even the hearts of my own brothers. But as one, who keeps at his *mufassal* home about ten months in the year and tries by all means to do his duty by the Government and his tenants, I appeal to you all to take full stock of the situation and devise some means, say, through the formation of a committee of this Council or through any Government agency, to work out this much-needed change in the Cess Act. I may say that my friend's resolution does not go far enough. It would be much better if the proprietors and tenure-holders were totally relieved from the obligation and responsibility of realisation and payment of all the cesses due by tenants.

Mr. PRESIDENT: Do I understand that you would like to amend resolution No. 1 so that the objection raised by the Hon'ble Member might be met by introducing one word from your own resolution? If you simply add "and tenure-holders" after the word "*zamindars*", that will serve your purpose, I think.

Maharaja JAGADISH NATH RAY, of Dinajpur: Yes.

The Hon'ble Sir PROVASH CHUNDER MITTER: In resolution No. 16 a request is made that immediate steps be taken to amend the Cess Act. Perhaps we may take it that he has also moved No. 16. In that case resolution No. 1 need not be very extensively amended.

THE PRESIDENT: It is not possible for me to allow the Maharaja to move resolution No. 16 at this stage as that will defeat the purpose of the Rules. My point is this: that I would certainly permit the Maharaja to amend resolution No. 1 which he has now adopted and which was given notice of by the Raja of Nashipur. The amended resolution will read as follows:—

"This Council recommends to the Government that the *zamindars* and tenure-holders be relieved from the duty of realising road and public work cesses"

and the remaining words of the resolution might be struck out.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, the resolution as amended will not perhaps serve the purpose of the Maharaja, because he has something else in view. Resolution No. 16 which stands in his name suggests that the present system of realisation of cesses should be discontinued and some other means of realisation provided for, but resolution No. 1 as proposed to be amended will not give any definite direction as to the procedure to be adopted in this matter unless the words "and some other means be devised by realising the same" be inserted at the end of resolution No. 1.

Maharaja JAGADISH NATH RAY, of Dinajpur: I accept that suggestion.

Rai Bahadur SATYENDRA KUMAR DAS: Mr. President, Sir, I rise to support the motion. The point raised by the mover is very reasonable. The point is this—that the *zamindars* do not want any more to realise the road and public works cesses. Formerly it was realised by the officers of the Government at least in respect of rent-free lands, i.e., by the Collectors. Let the road and public works cesses be realised by the officers of the Government. The *zamindars* do not want to do this duty any more. They want, if not any pension for their past service, but some relief at the present moment. It is very reasonable. Nothing can be said against the *zamindars* on this point.

It is a contract between the Government on the one hand and the *zamindars* on the other. The *zamindars* worked so long as the agents of the Government. They found the job, if not very profitable, at least honourable. The margin of profits was very low. But the *zamindars* commanded some amount of respect from the tenants. Now, Sir, we all know the fate of the Bengal *zamindars* even at the hands of this Council. The landlords are practically kicked out of their lands by successive legislation of the Government, the public movement of the country and by the no-rent campaign of the tenants themselves.

The Bengal *zamindars* cannot look for an ounce of sympathy either from the public or from the Government as if they did not save the country and the Government at any stage of progress since 1793!

3-45 p.m.

Well, the *zamindars* are not a willing party now—to realize cesses—Can you force the *zamindars* to do it? Will the Government force the *zamindars* to realise cesses? I pray, on what grounds?

You have robbed the *zamindars* of all their rights and in return you intend to force the unwilling *zamindars* to realise cesses—a most thankless task—which is neither profitable nor honourable.

If the Government persists in enforcing this duty—Government will be enforcing slavery on the *zamindars*. But, Sir, the days of slavery, if not altogether gone, are at least fast going and should I say—even in Bengal—among the *zamindars* too. And you cannot force upon an influential body of men—however wretched you may think of them at present—a task, which, on the grounds of equity and commonsense, you cannot justify.

Sir, with these few words I sincerely support the motion before the House.

Mr. SARAT KUMAR ROY: Sir, I rise to support this resolution on the ground that it is most reasonable that the *zamindar's* responsibility to Government should be confined to the punctual payment of land revenue only. This obligation is indeed very heavy and he can hardly manage to discharge it in the present economic condition of the country and it is high time to relieve him, as much as circumstances permit. But unfortunately he is saddled with various other responsibilities such as realisation of roads and public works cesses for which he is hardly allowed any remuneration.

It may be argued that the *zamindars* need not maintain any additional establishment for the purpose. But then you have to remember that the Government also need not maintain any additional establishment in its Tauzi Department for collection of cess. It is well-known that the same staff of the Tauzi Department in each Collectorate does perform both the duties of realising revenue as well as cess.

Under the Cess Act (section 109 of Bengal Act IX of 1880), all costs incurred by the Government either for assessment or for realisation of roads and public works cesses from the *zamindars*, are deducted from the amounts realised and the balance is credited to the District Road Fund.

It is regrettable that for an identical task the *zamindar* does not get any remuneration at all although the task of realising cesses from

the tenants involves no less trouble, risk and costs than that of the Government for realising cess from the *zamindars*. On the contrary, the difficulties and responsibilities of the latter far exceed those of the Government, who can realise all arrears by an easier method under the Public Demands Recovery Act.

Then again, while the Government owes no responsibility for making good the deficit from the Public Exchequer, if there be any, through any default by the *zamindar*, the *zamindar* has to meet the entire amount of cess from his own pocket, regardless of the question as to whether he has recovered or not the amount from his tenants or the holders of rent-free tenures within his estate.

Moreover, the amount of cess due from an individual tenant being very small, to sue the defaulter in civil courts for cess only is very costly.

Before suing a tenant for arrears of rent, the *zamindar* usually waits for three years. Naturally he has to wait for the same period for bringing a suit for arrears of cesses due and even if he gets a decree, it takes him another year to actually realise it.

But before he does so, he has always to meet his dues for cess punctually to the Public Treasury—along with the revenue.

For payment of revenue, he enjoys a substantial margin of profit, so that even if the rents are not fully realised, it may be possible for him to meet the demand for land revenue from out of the actual collections.

But as there is no margin of profit in the case of cesses, it is sheer injustice to ask the *zamindar* to pay the full amount of cesses before he does actually collect them from the tenants.

In the case of holders of rent-free lands within the estate, the difficulty is augmented further, as there the *zamindar* has not to make any demand for rent from the defaulter. The amount of cess in such cases being very small, it becomes extremely difficult for a *zamindar* to realise the dues from the defaulters except by suit in the civil court. But there also, he fares worse. Because the out-of-pocket expenses eat up even the whole of the amount of the decree he obtains in court.

Babu KISHORI MOHAN CHAUDHURI: Sir, to my mind the two resolutions cannot be amalgamated: one is for rent-free land and the other——

Mr. PRESIDENT: I do not think you can raise that question, because I have already admitted the resolution in an amended form, so that question does not arise.

Babu KISHORI MOHAN CHAUDHURI: I am only pointing out the great difficulties.

Mr. PRESIDENT: That is not necessary after my ruling.

Babu KISHORI MOHAN CHAUDHURI: The difficulty of the *zamindars* is no doubt very great in meeting the demand for the road and public works cesses. But the difficulty cannot be avoided without amending the Cess Act. Under the Cess Act *zamindars* are to realise these cesses from the tenants: yet in realising them these *zamindars* are not allowed any remuneration, but in cases of cess for rent-free land they are allowed half the amount, and I believe I am correct in saying this.

There is another difficulty also; when Government realise their revenue from the *zamindars* they also add to it whatever deficits there are in the collection of the cess on their part; this no doubt constitutes a great hardship upon the *zamindars*. Of course some relief is needed by the *zamindars*, but it would be difficult to find out means for realising these cesses from the tenants. If some other agency be provided for this purpose, that would be a very costly affair, and I do not think it would be convenient either to the tenants or to the *zamindars*. My idea is that this difficulty can be met if the *zamindars* are given some remuneration for realising the cesses, and also if it is provided by rules that whenever an estate falls into arrears of land revenue to Government the cesses should not be added to the demand; that is to say, the *zamindars* should not be obliged to make deficit payments of the cess along with his land revenue, for that would be very hard.

In the case of rent-free land there is another difficulty. In many cases small amounts are to be realised from a large number of rent-free holders and therefore it would be difficult for Government also to realise these cesses. Rent-free cesses used to be realised direct but only big and not small amounts were realised. Then, again, rent-free lands cannot be partitioned, without the consent of all the parties; when there is no unanimity, the result is that such estates cannot be partitioned if necessary.

The Hon'ble Sir PROVASH CHUNDER MITTER: My hon'ble friend may have full sympathy with the landlords but the question of partition does not arise from the resolution.

Mr. PRESIDENT: Yes, you need not refer to that.

Babu KISHORI MOHAN CHAUDHURI: These are the difficulties and I am only pointing them out. Some arrangement should certainly be made for the realisation of these cesses and the cesses for rent-free

lands. This is all that I can say; but the difficulty cannot be avoided by any rules unless some remuneration can be provided therein for the realisation of such cesses and the sum in default as regards such realisation be not added to the land-revenue which the *zamindars* have to pay to the Government. I have full sympathy with the *zamindars* in this matter and I recognise that it is a great hardship to them and agree that some arrangement should be made to relieve them; but it is not a very easy task, as it is very difficult to find out some other agency for realising these cesses.

4 p.m.

MUNINDRA DEB RAI MAHASAI: Mr. President, Sir, I beg to support the resolution just moved by my esteemed friend, the Maharaja of Dinajpur. There is a saying that the wearer knows where the shoe pinches. The *zamindars* who have been entrusted with the task of realising road and public works cesses, including cesses of rent-free lands, know full well how difficult it is to realise them. Estate after estate is being sold away for road cess dues alone. The handy certificate procedure is frequently resorted to for the realization of the cesses from *zamindars* in spite of enormous difficulties in their realisation. The collection of cesses for rent-free lands has been entrusted to the *zamindars*. This is an additional burden which the *zamindars* can ill afford to bear, specially in these hard days. The Collectors used to realise it direct until a few years ago.

And now, after so many years of direct collection, Government have thought fit, for reasons best known to them, to entrust the task of collection to the *zamindars* who had hitherto no touch with the rent-free holders or their lands. It was no easy task to trace them out from different districts nor to identify their lands. For instance, in case a suit is filed, the difficulty begins with the service of summons, and the proverbial law's delay may drag the case on for a number of years. Money is simply wasted in running after these cases. In the meantime, Government do not remain idle. They realise their dues regularly from the *zamindars*, and they do not hesitate to issue distress warrants, even warrants of arrest on defaulters. Government may say that they are giving liberal commission to the *zamindars* for the realisation of this kind of cesses, and the courts are empowered to grant decrees for double the amount due. But in spite of all these tempting offers, the *zamindars* suffer heavy pecuniary losses in shouldering the great responsibility of realising cesses from rent-free holdings. There is a saying "*Agu lath, pichu bath*"—"Kick first, and then come to words". Whether one is able to realise it or not, the kick is there in the shape of distress warrants or warrants for arrest, and after that, words are of no avail. This is *zulum*, pure and simple. Pray, take back your liberal

offers and save the *zamindars* from *zulum* and *zabardastism* to which they are generally subjected in the realization of these cesses. Pray, revert to the system of direct collection by the Collectors. They can realise the cesses from rent-free holders by certificate procedure, and there will be considerable savings as they will not have to pay such liberal commission to the *zamindars*.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, in his illuminating speech, the Maharaja of Dinajpur has given reasons which have prompted him to move the resolution. The subject-matter of the resolution is not a new one; it has been one of the standing grievances of the *zamindars*, and, time and again, has this question been brought to the notice of Government, but to our utter disappointment our cry, so far, has been one in the wilderness.

Sir, I do not wish to go into the history of the cess law, as it has been thoroughly dealt with by the mover. I hope it will not be going too far if I say that the system of cess-realisation has proved a veritable incubus, from which the *zamindars* are now unable to shake off. It is well known that the *zamindars* have to pay the road and public works cesses payable by tenants, no matter whether they are able to realise the same from the latter or not. The Hon'ble Member in charge of the Department has personal knowledge and experience, as a landholder, of the difficulties that confront the landholding community in this particular matter. It is the wearer who knows where the shoe pinches. The passing of the Bengal Primary Education Act has thrown upon the landholders an additional burden in the shape of realisation of the education cess. I am afraid it may prove to be the last straw on the camel's back.

As has rightly been pointed out by the mover, the prevailing economic crisis has told severely upon the landholders. With no resources to fall back upon, the landholders of Bengal are threatened with extinction. The Maharaja has quoted figures showing the number of estates put up to auction sale in consequence of non-payment of land revenue in the district of Khulna alone; but if I were to give figures for all the districts in Bengal, it would stagger even the worst critic of the *zamindars*.

The Hon'ble Sir PROVASH CHUNDER MITTER: Cannot the hon'ble member give us figures?

Rai Bahadur KESHAB CHANDRA BANERJI: I do not think I should go into the details, the Hon'ble Member ought to know better.

It is high time, Sir, that means were devised to lighten the burden of the *zamindars* in this respect, and relieve them of the obligation and responsibility of realisation and payment of cesses due by tenants

without further delay. The collection of cesses is no part of the *zamindar's* business, and it stands to reason that Government should provide for their realisation in such manner as they think fit. I strongly repudiate the suggestion made by certain gentlemen that it was a self-imposed task which the *zamindars* took upon themselves. It was quite the other way about. The duty of cess realisation was rather thrust upon them. I would, therefore, request the Hon'ble Member in charge of the Department to treat the question sympathetically.

Kazi EMDADUL HOQUE: Sir, I rise to oppose the resolution moved by the Mahâraja of Dinajpur. Sir, I do not know whether every pie of the roads and public works cesses realized by the *zamindars* is paid to the Government, or whether a portion thereof is kept for themselves. At any rate, the *zamindars* have undertaken this responsibility of collecting the roads and public works cesses.

Rai Bahadur KESHAB CHANDRA BAHERJI: It has been thrust upon us.

Kazi EMDADUL HOQUE: Certainly not. (Cries of "Question".) Certainly, they voluntarily took upon themselves the responsibility of collecting the cesses. There may not have been any pecuniary gain in the realization of these cesses, but all the same they did it from some motive. I think it gives them a very large amount of control over the tenants. If there is no pecuniary gain involved, they undertook, possibly, to collect them simply because they wanted to exercise a large amount of control over the tenants. In my opinion, they have taken the trouble of collecting the cesses for this privilege. Now, if they want to shirk the responsibility, I do not think it is the proper time to do so. So long as they were able to pay their rents and cesses, they did not raise any objection. But now that the pecuniary position has become so bad, they are raising all sorts of objections. If they are at all desirous of giving up the responsibility of collecting cesses, they should wait till better times—at least till such time when the tenants are in a position to pay their cesses. That will not result in any harm to them. On the other hand, if the *zamindars* shirk the responsibility now, they will be perpetrating a great oppression on the tenants, because these cesses will be realized by certificate-procedure. So, my submission is that since the *zamindars* have enjoyed the privileges arising out of the Permanent Settlement, they should wait till normal condition returns. With these few words, Sir, I oppose the resolution.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to oppose this resolution moved by the Maharaja of Dinajpur from this side of the House. We do not want to enumerate the grounds upon which our

objections are based. Suffice it to say, for my purpose, that this is the most inopportune time for a resolution of this character to be brought forward. The question of collection of cesses is an integral part of the *zamindari* system, and I think it is too late in the day now to bring forward a resolution of this character. It is perfectly well known Sir, to those who have studied the history of the Permanent Settlement that when the Permanent Settlement was introduced, the landlords were given certain rights on the one part and were saddled with certain responsibilities and duties on the other. It was hoped at the time that those duties and responsibilities would be discharged fairly, conscientiously, and honestly. It is extremely unfortunate that during the last century the landlords failed miserably to perform their duties, with the result that Government had to step in and pass certain Acts with a view to protecting the interests of the tenants, though the landlords were allowed to retain some of the privileges insomuch as there were certain sections in the Acts by which the rights of the tenants were not given a free scope: I mean that the operation of the Permanent Settlement in the interests of the landlords was safeguarded. I should like to remind the landlords that the time will come shortly when an account of the net profits enjoyed by them will have to be taken. I think, Sir, that the time is not far distant when the entire revenue demand will be fixed as a permanent measure which will allow the tenants some measure of relief. Then the landlords will not be in a position to ask their tenants to pay Rs. 80 to 85 lakhs per annum as roads and public works cesses to the Collectorate direct.

Sir, I submit that it is not the time when this question should be thrashed out. It is a bad time not only for the landlords but also for the tenants. It is worse for the tenants because they could not visualize the rainy day when they were prosperous.

To sum up, I cannot recollect any district where the tenants have ever been in a flourishing condition.

Sir, I beg strongly to oppose the resolution.

Maulvi ABDUL HAMID SHAH: (The member delivered his speech in Bengali.)

[At 4-15 p.m. the Council was adjourned for prayer and reassembled at 4-30 p.m.]

The Hon'ble Sir PROVASH CHUNDER MITTER: I will reply to the resolution as amended. But before doing so I would like to point out that the problem of relieving the *zamindar* from the collection of cesses on rent-free tenures is somewhat different from that of relieving him from the obligation and responsibility of realisation and payment

of cesses due by all classes of tenants. I will deal with rent-free tenures first. Under section 51 of the Cess Act an obligation is imposed on holders of estates or tenures to include rent-free lands in their returns. To compensate them for the trouble of collection, they are allowed to retain 50 per cent. of the cesses which sections 52, 55, 57 and 58 of the Act empower them to collect. The legislature deliberately imposed on the *zamindars* the duty of collecting cesses for such lands partly on the ground that the encumbrances were created by the *zamindars* or their predecessors, and partly on the ground of administrative inconvenience if the collections were undertaken by Government. Amalgamation of rent-free lands with the estate or tenure to which they belong, has been made the rule and direct assessment the exception. In accordance with the law as laid down by section 50 of the Cess Act, rent-free lands are to be included in a counterminous estate if it is not known to which estate they belong. But under section 58 of the Act provision is made that when an instalment of the cess that is due, is not paid by the holder of the estate or tenure to whom it is due within one month the zamindar shall be entitled to recover double the amount of such instalment that is due to him with interest at the rate of 12½ per cent. per annum. There were some practical difficulties in Eastern Bengal with regard to the use of section 58, but the private Bill introduced by Babu Khetter Mohan Ray and accepted by Government reduces them considerably. For the rent-free tenures the *zamindar* is in the first place, especially compensated by the payment of 50 per cent. If the *zamindar* knows his business he can get another 50 per cent. when the tenant does not pay within one month. These provisions should relieve the *zamindars* considerably but I quite admit that the *zamindar* is in a difficult position when he has to collect, say, two, three, four or five annas from a large number of people, and although individual payments are small the sum total is often large. But if he cannot collect these small sums from a large number of people he has often to pay a fairly large sum which represents the sum total of these small sums. That is the difficulty about the collection from rent-free tenures, but I regret to say that in the speeches little attention was drawn to this part of the grievance. Attention was however drawn in a general way to the difficulties due to the present economic position. It is a fact that certain sections of the people are suffering, but about rent-free tenures that is not the real difficulty because the *zamindar* can get another 50 per cent., plus interest. If he has to collect, say, Rs. 500 in driblets of annas two and three he may not succeed in collecting the bulk of the cess. Because of that and other difficulties Government are willing to examine the question if the mover will withdraw his resolution. If he does not withdraw I am afraid Government must oppose it. This system has been in existence for quite a long time and without proper examination it is not possible to change the system. But about the general question I may now say a few words. Every

zamindar and every tenure-holder wants to be relieved from the duty of collecting the cess. Here again I have not heard a single word of practical suggestion as to what can be properly done to relieve the *zamindar* from what he claims to be his difficulty. Although appeals of a general nature were made to Government and the difficulties due to the present economic situation were dilated upon, the speakers should have remembered that they were discussing an extremely practical problem where general appeals and general observations were not of much assistance. My hon'ble friend knows very well that the total amount which is collected from the roads and public works cess is something like 85 lakhs of rupees and it is patent that if this collection is to be made by Government that Government will not pay the money from its own pocket but either the tax-payers will have to pay it or it will have to be paid by the district board. Under the present system the cost of assessment is charged to the district boards and I would like to refer to some rough estimates of the cost of direct collection in this connection. But before I do so, I would point out that I have not heard anything about the probable cost of direct collection by Government from the speakers who wanted the *zamindars* to be relieved of the duty of collection. It may be said that it is difficult for private members to frame such estimates for the whole province. I admit their difficulty, but if every individual *zamindar* who spoke on this, whether he is a big *zamindar* or not, tried to frame an estimate of the cost in his own *zamindari* he could have given the House much valuable information. But apart from that, as the problem is a practical one, it was the duty of the *zamindars* who wanted to be relieved, to have paid more attention to the practical side of the problem. I hope I would not be misunderstood if I warned the *zamindars* that difficult times are ahead for them, and unless they show more signs of self-reliance their position will become worse and worse. I advisedly utter this word of warning. However, as I have not been given any estimate of cost I would inform the House that several estimates were prepared. According to one such estimate the cost of direct collection will be somewhere near Rs. 35 lakhs, according to another estimate, it is much lower; according to a third estimate again it is likely to be higher, if the system of assessment and collection has to be changed. Roughly speaking, let me assume that Rs. 30 to 35 lakhs will be the cost of collection, but whatever the cost of collection may be somebody has to pay for it. If we ask the district board to bear this charge their income will be reduced by nearly half. If the district boards have to bear this charge and have to discharge their present responsibilities then the cost of collection will have to come from somebody's pocket—either from the *zamindars'* pocket, or the tenants' pocket or from the pockets of both of them. In other words it will mean raising the total cess income. But raising the total cess income will mean an additional burden also on the *zamindars* and perhaps that burden will be more severely felt than the difficulty of

paying the cess in advance. The real trouble of the *zamindars* is not so much the duty cast on them by collection but their real trouble is that they have to pay to Government *kist* by *kist* the cesses assessed on their estates although they do not in most cases succeed in realising the same punctually from their tenants. In other words, a good deal of the cess they have to pay temporarily out of their own pocket. This difficulty was pointed out by the Maharaja Bahadur and other *zamindars*, and Khan Bahadur Maulvi Azizul Haque has also referred to this difficulty.

I would like to point out that no relief can be granted unless the law on the subject is changed. I have not heard a single word as to how the change can be effected without changing the law. Under the law as it stands to-day (section 41 of the Cess Act) the *zamindar* has the duty cast on him of collecting the cesses. My friend, the Kazi Sahib, is not right when he says that the duty was voluntarily undertaken by the *zamindar*. The duty was cast on the *zamindar* in 1871 and again in 1881 and it is a statutory obligation. Whether that obligation is good, bad or indifferent is more a question of practical importance so long as the statute on the subject is not changed.

4-45 p.m.

Now it may be said that the Cess Act can be amended. There Government are in the hands of this House, and I should like the *zamindar* members of this House to think over this—as to how far they will be able to carry the House with them, if direct collection means an additional burden of, say, Rs. 30 lakhs. It is no use saying in a general way that you are hard hit. Put forward concrete suggestions—suggestions which will be acceptable not only to Government but also to the majority of the members of this House, and I can promise that such suggestions will be very seriously considered. But unless you can carry the majority of the House with you it is no good saying that you are hard hit. Are not the tenants hard hit? Are not the clerks hard hit? I say that everybody is hard hit owing to the unfortunate depression. I see my friend, Mr. Dutt, is shaking his head in approval. Even the members of the medical profession are hard hit. (A VOICE: including Government members?) Yes, even Government members are hard hit. Now these appeals *ad miseri cordiam* will not carry us far.

There are certain other points to which I think I should draw the attention of the House. From the trend of speeches, particularly from the trend of speeches of big *zamindars*, and also from the speeches of other members I thought that what was attempted to be pointed out was that big *zamindars* were the only *zamindars*, but is that so? How many big *zamindars* are there in this province? Big *zamindars* are very few. I have before me a statement of the number of *zamindars* in

the district of Dacca and I think my esteemed friends Mr. Das and Mr. Banerji, who come from that district, will have to agree when I explain the relative number of big and small *zamindars* in that district. In that statement I find that the number of *zamindars* paying a land revenue of less than Re. 1 is 929; the number of those paying more than Re. 1 and less than Rs. 5 is 4,076; those paying more than Rs. 5 and less than Rs. 10, 1,654; those paying more than Rs. 10 and less than Rs. 50, 2,671; those paying more than Rs. 50 and less than Rs. 100, 739. Now up to that point I can say that although these persons are *zamindars*, they are not big *zamindars;* they are indeed poor people. You will remember that in a *tauzi* 5, 10 or even 20 persons may be co-sharers so that the individual income of these *zamindars* is extremely small. I will next give you the figures of those who pay a land revenue of more than Rs. 100. There are only 501 estates which pay land revenue of more than Rs. 100 but less than Rs. 500. The average income of each of these estates is only Rs. 1,080, but as I have already said a number of people may be interested as co-sharers in each estate. Therefore even with regard to this class the landlords cannot be described as big *zamindars* or well-to-do people. The number of estates which pay land revenue of more than Rs. 500 but less than Rs. 1,000, is less than 90. The number of those which pay land revenue of more than Rs. 1,000 but less than Rs. 10,000 is 108. There are only 3 estates in the whole district with a land revenue of more than Rs. 10,000, but when we take into consideration that in most cases there are a number of co-sharers to divide the income it follows that the number of big *zamindars* is extremely small. The problem, therefore, is not a problem of comparatively well-to-do people only as the bulk of the *zamindars* are poor. To the big *zamindars* I say that when pleading the cause of landlords you must not forget the poorer section of your countrymen, you must not forget the tenure-holders who are very often even poorer than the poorer section of the *zamindar*. I think there is hardly any member in this House who is not a tenure-holder or *zamindar*, but it is not class interest that you are here to look after, but the interest of the whole community—what is best for the community as a whole. The problem before the House is therefore not a problem between a few rich men and comparatively poor men, but it is a problem between poor and poor as the bulk of the *zamindars* are poor and even a larger percentage of the tenure-holders are also poor. Ninety per cent. of the *zamindars* pay a very small revenue and they are poor.

They are affected equally with the bigger *zamindars*. Therefore you will have to put your heads together—*zamindars*, tenure-holders and *raiyats*, the friends of the *zamindar* and the friends of the *raiyat*—and try to evolve a system which will be a better system for all concerned and particularly for the *raiyat*. Once you can evolve a better system for the *raiyats* you will find that the conditions of the *zamindars* will

improve automatically, because on the prosperity of the tenants depends the prosperity not only of the *zamindars* but of the community as a whole—lawyers, doctors, tradesmen, merchants, and, in fact, of everybody. Now, do not for a moment ask that the burden of Rs. 30 or 35 lakhs should be shifted from your shoulders to those of men who can bear it less. From what I have stated it does not at all follow that the bulk of the landlords and the bulk of the tenure-holders are able to bear the burden, but what I do say is that it is a question of adjustment and adjustment after due consideration and inquiry.

Now, Sir, it is known to many members of the House that amendments of certain sections of the Cess Act are under discussion and more than one conference has been held for the consideration of those amendments. In those conferences the members of the *praja* party, the members of the *zamindars'* party and members who belong neither to the *zamindars'* party nor to the *praja* party were invited. Helpful suggestions were put forward and if in the course of further discussions any practical suggestions are brought forward and if Government are satisfied that the proposals that are put forward will meet with the general approval of the House, then Government will consider such proposals with every sympathy. I have explained the position and I hope the mover of the resolution, after the explanation that I have offered, will withdraw his resolution. If he presses his resolution, I regret that Government will have no other alternative but to oppose it.

Maharaja JAGADISH NATH RAY, of Dinajpur: Sir, in view of what the Hon'ble Member has said I beg to withdraw resolution No. 1. The other portion of my resolution which has been amalgamated with this resolution, namely, the amendment of the Cess Act, remains. May I move that portion to get the Cess Act amended?

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, we are concerned with resolution No. 1 now. If resolution No. 16 is allowed to be separately moved I submit that the matter already disposed of should not be brought forward again.

Maharaja JAGADISH NATH RAY, of Dinajpur: I withdraw the resolution standing in the name of the Raja Bahadur.

Mr. PRESIDENT: There is no resolution of the Raja Bahadur before us: it is your own resolution by adoption.

The motion of Maharaja Jagadish Nath Ray, of Dinajpur was then, by leave of the Council, withdrawn.

Development of fish industry.

Mr. SARAT KUMAR ROY: Sir, I beg to move that this Council recommends to the Government that early steps be taken to investigate the possibilities of the development of the fish industry in Bengal.

Sir, in connection with the problem of human nutrition the Royal Commission on Agriculture in India recognized the great value of fish as an article of diet. They wrote on page 58 (Abridged Report): "In connection with diet we are much impressed by the possibilities of a development of the fish industry in India and would commend the matter to the attention of the Local Government."

Sir, it is a well-known fact that in Bengal fish is considered as a principal article of diet. But unfortunately the number of fish has greatly diminished within the last few years, and, as a cofisequence the price of it has abnormally gone up. The result has been that it is not within the reach of people with moderate means to have it on their table as much as would be desirable. The cause for this shortage of supply requires careful investigation.

Sir, the fisheries of India have not been also scientifically exploited. (Annesty: Economic Development of India, page 176). In the same page she recommends. "It is therefore apparent that the initiative ought to be taken by the Government."

Sir, no doubt there was a fishery inquiry under orders of the Government, late Sir K. G. Gupta being specially deputed for the purpose, and as a result the Agriculture Department had a section attached to it which dealt with the development of fisheries. But owing to the cost of maintenance, it had to be abolished. No further steps have been taken since then. Sir, in consideration of the great value of fish as an article of diet, and, in view of the recommendation of the Royal Commission for development of the fish industry the Local Government ought again to revive this section of the Agriculture Department and thus try to develop the fish industry on the latest scientific methods.

The Governments of Madras, Bombay and the Punjab have got their Departments of Fisheries. "The Madras fisheries and collateral industries are better organized and more progressive than those of any other province." A number of experts like Sir F. A. Nicholson, Mr. James Hornell, etc., were and others still are employed on the staff, and notable industrial success, besides development of sea fisheries, has been achieved. I may mention here some of those achievements to show how in addition to helping the solution of the problem of human nutrition the development of fisheries has contributed largely to the revenue of the Government and to the development of agriculture. Madras has established an excellent fish canning establishment at

Egmore and with it as auxiliary industries, the manufacture of fish oil and of fish guano. From fish guano excellent manure is made and from fish oil fish-oil-soap is manufactured, which has been found most valuable for spraying fruit trees.

Sir, Bengal has also a sea-board and there is no reason why Bengal like Madras should not develop profitable sea fisheries and collateral industries. True, experiments with the *Golden Crown* did not prove a great success, but the experiment was not sufficiently pushed.

Sir, I cannot do better than conclude my argument by quoting Colonel A. Alcock, late of Indian Marine Survey, to show how greatly the national prosperity depends upon the development of the country's sea fisheries: "In every civilized country that has a sea-board, the sea fisheries are a recognized source of the country's wealth and an acknowledged factor in its commercial importance, besides often giving, as in the case of Norway, a determining impulse to its scientific, no less than to its industrial activities. In India, unfortunately, the sea fisheries, although they are of incalculable value, are almost entirely neglected by capital, so that instead of contributing largely—as they ought—to the national prosperity, they do little more than furnish a contemptible living to the meagre population of the coasts." With these few words I move the resolution which stands against my name

MUNINDRA DEB RAI MAHASAI: Mr. President, Sir, I beg to heartily support the resolution moved by my friend Mr. Roy. Although personally I am averse to taking fish I cannot underrate its value as a nourishing food for Bengalees. To them milk and fish are the two principal nourishing foods. Owing to want of pasturage and good breed of cattle milk has become a dear commodity and cannot therefore be used freely by men of moderate means and for this the country is indebted to the Agriculture Department for its callous indifference in such vital matters. Fish could be had in plenty in the rivers and rivulets, *khals* and *bhils* and tanks which deltaic Bengal possessed in abundance.

5 p.m.

But thanks to the Irrigation Department in their criminal neglect and indifference to the real needs of the people, Bengal has come to such a sad pass. In spite of the self-adulated Chuadanga speech and its newspaper publicity propaganda I remain as unconvinced as ever. I should like to repeat what I said on previous occasions that the dead and dying rivers of Bengal are a crying shame to the Irrigation Department and I hold it responsible for the shortage in the fish supply of the province. Of course it is no use crying over spilt milk. But wrongs cannot be perpetuated. The time for redemption has come. It

is high time for the Government to retrieve its position by deeds and not by words. I hope that early steps will be taken to investigate the possibility of development of the fish industry in Bengal. Pray do something tangible and thereby earn the everlasting gratitude of the fish-eating people of Bengal. The use of fish is peculiar to Bengal. It is suitable to the climatic conditions under which they live in contrast to the *dal, roti* and *chana* of the dried lands in Upper India. For want of nourishing food, the Bengalee race is becoming weaker day by day. To find out ways and means to revivify the dying race should be the paramount duty of Government. With these few words I support the motion.

Rai Bahadur KAMINI KUMAR DAS: Mr. President, Sir, I rise to support the mover and along with it to press my motion No. 17. To us this resolution seems important, because it is to find out ways and means for the development of fish industry in Bengal. Fish supplies all the essentials of nutrition except carbo-hydrate. Ninety-five per cent. of the population of Bengal depend on fish for their nutrition. Fish can be easily reared and cultured in thousands of public and private tanks which abound in Bengal. The Madras Department of Fisheries is carrying on fish culture in such tanks with success. Economical importance of fish culture in paddy and jute fields will yield a by-product to the paddy and jute cultivators. This will require only a small embankment to keep water in the fields which will not only increase the fertility of the fields but will also protect cultivation against inundation.

Mr. Southwell, the late Director of Fisheries, Bengal and Bihar, says that the extent of importance of inland fisheries of Bengal are probably not excelled either in area or potentiality by any other fisheries outside America and Canada. The area covered by these potential fisheries in Bengal during the dry season cannot be less than 7,000 or 8,000 square miles and during the rains it is enormously greater. In spite of the above fact unfortunately the supply of fish in Calcutta is only about 25 per cent. of the actual requirements. Culture of fish in tanks is very extensively carried out in towns and villages remote from rivers. The area covered by these tanks is very considerable and they are of great local importance. The Sunderbans comprise an area of over 5,700 square miles made up of forests, swamps, estuaries, islands and numerous rivers communicating with one another by innumerable small canals. The potential fishing grounds of these places are not thoroughly exploited, partly because of the absence of suitable facilities for the disposal of the catch, and partly on account of the fragile and unseaworthy boats which do not permit fishing at great distance from the shores. Mr. Southwell estimates that the Sunderbans fisheries are

capable of furnishing yearly not far short of 200,000 maunds of fresh fish. Colonel Alcock, I.M.S., late Surgeon-Naturalist in the Royal Indian Marine, has said: "The fisheries of the Bay of Bengal are of a value well nigh incalculable, that they are unknown, uncared for and unappreciated, is unfortunately true, but it is equally true that they will prove a mine of wealth whoever may work them in the face of the apathy and incredulity that at present exist regarding them." The late Mr. K. G. Gupta estimated that 40 million maunds of fish would represent the proper annual consumption of the province were the supply equal to the demand which is unfortunately not. However, if the supply be estimated at 25 per cent. of the demand the total production of fish from all sources in the Province would be at least 10 million maunds. If the price of fish be calculated at 4 annas per seer the total amount of the value of fisheries in Bengal will certainly be 10 crores of rupees. Does not an industry of such a magnitude call for an investigation into the possibilities of the development of fisheries? Is it not the duty of Government to develop such an important department by all means possible not only on account of its economic importance and also on account of the part it plays in the dietary of such a vast population? Let us not forget that with the depletion of fish in Bengal we are losing day by day the chief nitrogenous food which is essential to preserve our health. Time is fast approaching when we shall have to go back to our sweet home, far from jupiters where we will find milched cows in their sheds and fish-fed tank, which is our own delight

If the Government really want to combat malaria which levies such a heavy toll of lives in rural districts of Bengal, they must reclaim all the marshes and swamps which are the breeding places of mosquitoes by extending the plantation of larvæ-dal fish in them. To solve the above problems nothing short of an up-to-date department of fisheries need be established in the near future, the negligence of which presupposes wilful indulgence in the deterioration of national health and wealth. With this object I suggest that Government should take immediate steps for the following:—

(1) Installation of a few fish-curing yards in the Sunderbans like the curing yards of Malabar Coast.

(2) To supply duty-free salt to the curers.

(3) To urge the Railway companies to build refrigeration cars for the transportation of fresh fish.

(4) Installation of reduction plant at a suitable station in the Sunderbans for the utilisation of the livers of sharks and rays and the meat of various inedible fish for the production of oil and manure.

(5) Organisation of fresh water model farms for mother-of-pearl shells, which is necessary for the development of button industry.

(6) Installation of a button factory to render technical help to the illiterate button manufacturers and for training in the industry.

(7) Organisation of a model fish farm for training the fish culture.

We do realise that at this critical juncture of heavy loss and world trade depression, Government will plead poverty, but in that case I will beg to draw the attention of Government to the Pearl and Fishing Company, Ltd., which has been started at Chittagong under the able supervision of Mr. Nizam who has received all up-to-date modern training in the subject in Europe and other foreign countries. Government may help this company or utilise the services of Mr. Nizam in their own department which will surely save greater cost to bring such trained experts from elsewhere. With these few words I beg to support the motion.

Haji BADI AHMED CHOWDHURY spoke in Bengali the English translation of which is as follows:—

"Sir, I heartily support Babu Sarat Kumar Roy's resolution for spreading and improving fishing industry in Bengal.

The people of Bengal are great consumers of fish. Even dry and bottled fish are used as food wherever and whenever a scarcity of fish arises. There are various facilities for pisciculture in Bengal and in this respect she enjoys many natural advantages which cannot be found in other parts of India. The fishermen of Bengal employ crude and antiquated methods for catching fish from the sea and in the islands near Bengal. But they cannot carry on their business on as large a scale as is desirable on account of the heavy cost necessitated by their old fashioned, crude methods. Even in those parts of Bengal which abound in rivers, ponds, ditches and lakes no steps are taken for catching, preserving and multiplying fishes in a scientific way. Like Bombay, Bengal is also situated on the sea coast. As far as my information goes, the Government of Bombay have been making profits from the fisheries started by them. Formerly, the Government of Bengal had once taken up the fishing industry for consideration but they abandoned the scheme for want of an expert holding a degree in the scheme and industry of fishing. But this want has been removed at present. A young man named Mr. A. R. Nizam, M.Sc., has, as you have all seen in the newspapers, returned from America, where he spent nearly four years, with the degree of M.A., in pisciculture. He has at present started a registered company under the name of 'Pearl and Fishery Co.' and has begun his work at Chittagong. He has succeeded in manufacturing

indigenous cod-liver oil out of a fish found in the Bay of Bengal. In these hard times Government will be able to start a new and profitable concern either with his help or by financing him or getting a scheme prepared by him. As far as I know, Mr. Nizam is prepared to draw a valuable scheme without charging any remuneration for it from Government.

I hope, in view of the importance of this matter, Government will accept this resolution."

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Sir, I have every sympathy with the object in view in these resolutions. Fish is certainly an important article in the dietary of the people of Bengal. The question of improvement of fisheries which is of great importance to the province has been the subject matter of careful investigation in the past, and there is a mass of literature available which contains valuable information regarding Bengal fisheries. It is hardly necessary to recapitulate the past history, which is well known to this House. But I should like to mention here the comprehensive reports on the subject by the late Sir K. G. Gupta, Mr. K. C. De and Mr. Southwell, in which the various aspects of the problem were fully dealt with. It is also well known that, as a measure of retrenchment, the Government of Bengal, on the advice of the Bengal Retrenchment Committee of 1922, abolished the Bengal Fisheries Department in 1923. Government, however, recognised that a Fisheries Department was desirable, if funds were available to set it up on an efficient basis. Preparation of a scheme for the purpose was accordingly directed. In 1924, however, it was decided, owing to financial consideration, to postpone the reconstitution of the Fisheries Department. But it was directed that the possibilities of the organisation of pisciculture on a profitable basis should be examined.

5-15 p.m.

The Director of Agriculture who was in charge of the Fisheries Department since 1918, until its abolition in 1923, was entrusted with the work of investigation. Mr. Finlow, while on leave at Home, made necessary inquiries in the continent and especially in Czecho-Slovakia and Hungary, where carp-breeding on a large scale is carried out. He also visited Madras and other places in India. A full and interesting report has been recently received from Mr. Finlow on the possibility of reorganising the Fisheries Department in Bengal. There is so much valuable information contained in the report, copies of which have been supplied to the mover and to other persons interested in fishery development, that Mr. Finlow's investigation can very well be said to be of the nature of such investigation as is recommended in the resolution. It is, therefore, unnecessary to initiate fresh investigation into the matter. But while Government fully recognise the desirability of developing

the fish industry in Bengal, they are at present precluded by financial conditions from incurring expenditure for this purpose. Until, therefore, financial conditions improve, it should rest with the public and the local bodies to take the initiative in the matter. The report indicates the possible lines, such as carp culture and curing and canning industry, on which private enterprise could be directed and occupation could be found for *bhadralok* youths. The provisions of the State-Aid to Industries Act might be utilised for the development of curing or canning industry on modern lines.

In view of what I have stated, I hope my friend is convinced that it is not necessary to make any further investigation into the matter. I hope, therefore, that he will be pleased to withdraw his resolution; otherwise I must oppose it

Mr. SARAT KUMAR ROY: Sir, I beg leave of the House to withdraw my resolution.

The motion of Mr. Sarat Kumar Roy was then, by leave of the Council, withdrawn.

The following resolution was called but not moved and therefore deemed to have been withdrawn:—

Babu KHETTER MOHAN RAY: "This Council recommends to the Government that steps be taken by them to introduce fresh legislation to amend the Bengal Tenancy Act, 1885 (VIII of 1885), in order to make the landlords' fees payable by transferee within two years from the date of sale."

Amendment of the Bengal Tenancy Act.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I beg to submit that resolutions Nos. 4, 11, 29, 31, 42 and 61 are more or less identical, excepting in a few particulars, and I would suggest that they be discussed together

Mr. PRESIDENT: What really is the point? Do you mean to say that the decision on one will apply to the others also or do you want them to be discussed together?

The Hon'ble Sir PROVASH CHUNDER MITTER: Nos. 4 and 11 are identical and No. 29, too, excepting sub-clause 4, is also identical; whereas Nos. 42 and 61 ask for the appointment of a committee; so they may perhaps be all discussed together.

Mr. PRESIDENT: My difficulty is this: I cannot do anything which will undo the result of the ballot. So I do not think it is possible to group these resolutions together. It would be best for the present to discuss resolution No. 4 only and the intending movers of the rest can support it.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, No. 11 is also an identical motion. In view of the ballot difficulty I suggest that the decision of one will apply to others.

Maulvi TAMIZUDDIN KHAN: Sir, so far as resolution No. 4 is concerned, as the Hon'ble Sir Provash Chunder Mitter has pointed out, it is identical with No. 11. But my friend Maulvi Fazlullah, in whose name No. 4 stands, being absent, may I have your permission to move it?

Mr. PRESIDENT: Yes, you can do so as your own resolution.

Maulvi TAMIZUDDIN KHAN: I beg to move that this Council recommends to the Government that early steps be taken to further amend the Bengal Tenancy Act

(1) by repealing the provision regarding landlord's transfer fee;

(2) by repealing the provision regarding pre-emption;

(3) by repealing the provision regarding enhancement of rent.

This resolution raises a question of vital importance to the country in general and the agriculturist classes in particular. Agriculturists are the life and soul of Bengal and whatever conduces to their welfare cannot but be fraught with possibilities for the good of the Province. But in this land of anomalies these indispensable classes, the sole producers of the country's wealth, have always been kept down in a state of serfdom and exploited almost out of existence even by people who pass off for ardent patriots and profess the profoundest love for the land of their birth. These patriots who have been placed in a position of vantage as the result of certain fortuitous circumstances are to my mind too shrewd not to see through the hollowness of their lip-professions. This resolution will be an acid test of their patriotism.

Every one in this House knows that in the year 1928 there was a very extensive amendment of the Bengal Tenancy Act of 1885. The Act contained scores of anomalies and barbarous provisions, and those in whose hands the destinies of the people of this Province are placed, felt compelled to take steps for an improvement of the situation. High hopes were raised that the long night of the Bengal tenants' grief was about to dawn and the nightmare of legislative oppression was at last going

to be exorcised. But thanks to the excellent combination of hypocrisy and selfishness the whole process proved to be a huge deception and in many respects new instruments of oppression were placed on the statute book. The provisions as to landlord's transfer fee and *salami* under sections 26C and D and 48H of the amended Act are some of the additional halters round the neck of the already gasping Bengal *raiyat*. I do not say that it was a thing altogether unknown in the land. The evil was there lurking under the shadowy wings of the demon of custom. From that position it was incapable of doing harm to the alert. But the amending Act of 1928 brought it out to light from its shadowy existence, infused new vigour into its system and provided it with additional clauses equally effective to molest both the *unwary* and the alert.

It was enacted that as soon as there is a transfer of a holding 20 per cent. of the purchase money *plus* certain exorbitant costs for transmission must be paid down before the instrument of transfer can be registered. Can any man who has the slightest sense of justice in him support a thing like this? What for is the landlord to be entitled to this exaction? And just look at the monstrosity of the whole thing. As soon as there are 5 successive transfers of a holding the landlord gets 100 per cent. of the purchase money, *i.e.*, the full price of the holding and yet the right endures for his benefit and that of his successors for all time to come. Any country but India would have been shocked at the very idea of a thing like this and its people would rather have laid down their lives before submitting to such an oppression.

There are some again who would fain support it on the plea that landlords were enjoying this privilege by custom. There can hardly be a weaker argument than this. On a ground like this all the evils the world has outgrown can be supported. You can on this plea support with far greater cogency the world-old institution of "slavery," the institutions of "*suttee*," and "human sacrifice" or for the matter of that, the custom of "untouchability". If a thing is an evil in itself, it is futile to argue that it has endured for a long time. I hope that argument will not be repeated on the floor of this House. But if those who are in the enjoyment of this iniquitous privilege and those whose interest it is to sail with them in the same boat are bent upon playing the Shylock, no logic on earth will be able to convince them.

Then what about the provision for *salami* embodied in section 48H of the Act? Under that section a similar landlord's fee called "*salami*" has to be paid even in the case of a lessee to an under-*raiyat*, if it is for a term exceeding 12 years, and yet the under-*rayat's* interest thus created at enormous cost is not to be a protected interest under section 160 of the Act and is liable to be annulled if the superior *raiyati* interest happens to be sold at a sale in execution of a decree for rent. Apart from its inherent injustice this provision for *salami* in the case of a lessee has not even the flimsy support of custom. There was no custom

anywhere in the province about the payment of *salami* to the landlord in the case of a lease; so this provision stands condemned from every point of view.

Intimately associated with this evil of landlords' fee and *salami* is the more obnoxious evil of pre-emption. This provision is a death blow to freedom of transfer and has served to reduce the *raiyat* to the position of a serf, not to speak of the loss of revenue that it has been causing to the Government on account of the consequent discouragement of transfer of holdings. There is a loud cry in the country for political freedom but very few people seem to realise that political freedom cannot come at least in a democratic form as long as this feudal slavery continues. With what face can you ask people to long enjoyment of political rights and privileges to give them up to you while you, yourselves, are not largehearted enough to emancipate those who form the backbone of your country and on whom you depend for your very existence? But, Sir, I am perhaps going to digress from the point at issue.

(At 5-30 p.m. the Council was adjourned for prayer and re-assembled at 5-40 p.m.)

Maulvi TAMIZUDDIN KHAN: The last item in the resolution is the wide power given to the landlords to enhance the rents of their tenants. This is another glaring instance of the unjust and one-sided provisions of the Tenancy Act. The landlord has his revenue fixed in perpetuity; but he must be given the luxury of multiplying his gains almost to an unlimited extent at the cost of his starving tenants (!) The ingenious landlord will probably advance arguments even in favour of a palpably unjust provision like this and one can be sure that such arguments, irrespective of their logic, will not fall on deaf ears in a House like this. But is it really too late to mend? Can we not, in the interest of the country we all profess to love, rise equal to the occasion and concede to the Bengal *raiyat* not any privilege or undue advantage, but what, according to the immutable canons of justice, is his just right, and without which it will be impossible for him to raise his head as a free human being and to play the honourable role we are all expecting him to play under a new regime on the threshold of which we are standing to-day? A prosperous and contented peasantry means a prosperous Bengal and how can the peasant be expected to improve his lot with the bondage of *salami*, the pre-emption and perpetual enhancement of rent round his neck? I never mean that these are the only ills to which he is subject. He has a hundred and one other grievances with which we are not at present concerned. Many of those grievances depend upon factors largely beyond our control but the legislative shackles under the Bengal Tenancy Act that bind him hand and foot are fully within our powers to undo, and if we are even a bit

sincere in our tall talk about self-government, democracy and nationalism, it should be our immediate duty to remove them from the statute book. We should only remember that justice is bound to prevail in the long run and if those, in whose hands justice lies to-day, are indifferent, or, what is worse, unfair, the disturbance in equillibrium that has been created is sure to be composed by the natural world forces working steadily, if slowly, towards that end, in spite of all your makeshifts and legislative bulwarks futilely arrayed against that surging tide. I hope that even those in this House who are thinking that this resolution is against their interest will realise that it aims not only at the good of the tenants but also at their ultimate welfare and the common welfare of all, and will give their unstinted support to it.

5-45 p.m.

Maharaja SRIS CHANDRA NANDY, of Kasimbazar: Sir, I rise to oppose this motion. This subject had been discussed threadbare in this House on many previous occasions, specially during the controversy regarding the Bengal Tenancy Amendment Act of 1928, when sections 26A to 26J were incorporated in the Act. These sections which provide for the landlords' right of pre-emption and the right of transfer fee, were consequential upon the granting of the right of transferability to the occupancy holdings. Previous to these amendments the occupancy tenants had a doubtful right of transferring their lands, and the transferee had to secure recognition of his purchase by going to the landlord immediately after the sale, or at a later period and paying him a *salami* and arrears of rent due from the old tenant. The system did not work well, inasmuch as the amount of the *salami* was not fixed and the landlord might be unwilling to accept the transferee as tenant, resulting in much litigation. Hence the need was felt of granting the right of transfer to the occupancy tenants. But at the same time the rights and privileges of the landlord and the general welfare of the agricultural community had to be safeguarded. Hence the arrangement of 1928 which was designed to meet both these points of view. Under the old law the landlord had two alternative courses open to him in the case of a transfer of land, namely, the receipt of *salami* which varied considerably, or the option of ejectment suits against undesirable tenants. Instead of the *salami*, we have now a uniform rate of transfer fee fixed by the law at a certain proportion of the consideration money which was admittedly below the average rate realised by the landlords previously as *salami*. Instead of the old practice of ejectment suits, we have now got in the Act the right to pre-emption (or better post-emption) by the landlords, which is certainly a fairer and more equitable substitute to the older one. It should be remembered that these Amendment Acts did not grant the landlords any right which had not existed before. On the other hand the *zamindar's* right had been considerably curtailed. The *zamindars*

did not grudge them. Then, again, the law provides adequately against any possible misuse of the right to pre-emption. The restriction of time and procedure by which this right has been hedged round in the Act will not allow any possible misuse.

Sir, it has been feared that due to the right of pre-emption all lands will pass into the hands of small landlords in the village. But I anticipate danger from another quarter. I mean the danger of agricultural land passing from the hands of the poor peasantry into the hands of a non-agricultural money-lending class. It was the considered opinion of Sir John Kerr's Committee in 1922 that "apart from the question of the transfer fee, the landlord is entitled to object to an undesirable tenant being forced on him as a tenant, while it is clearly not in the interest of the agricultural community that occupancy holdings should be bought up by money-lenders and non-agriculturists and settled on a rack-rent with cultivating tenants who would be mere tenants-at-will". It is a serious danger to the rural economy of the country if her agricultural lands are permitted to pass into the hands of a permanent non-agricultural money-lending class. It is the *zamindars* with their rights who stand in the way. And sections 26A to 26F of the Bengal Tenancy Act of 1928 are likely to repel this danger and will obviate the necessity of having Land Alienation Acts on the model of the Punjab, passed in Bengal.

The third part of the motion refers to a repeal of the provision regarding enhancement of rents touching sections 27 to 37 of the Act, but does not touch those provisions relating to the reduction of rent. This is an impossible motion, inasmuch as it prohibits any future enhancement of rent even if circumstances change and become favourable. This is tantamount to another permanent settlement at a time when older and the long-standing one is being attacked.

Sir, in conclusion I like to say that this is a radical measure, designed to introduce revolutionary changes in the tenancy system of Bengal. This is not a just measure, not only because it touches the rights of the *zamindars* but primarily because it is likely to be an entering-wedge to chaos and all confiscatory legislation. Even in itself this is likely to revolutionise the rural economy of Bengal. The rights to transfer fee, pre-emption and the enhancement of rent are but natural corollaries to the fundamental maxim that the landlords are the real owners of the land; in their strength and weakness, in their prosperity and decay is bound up the weal and woe of the *raiyats*. I do not think this House likes to stand committed to a principle as revolutionary as this.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I rise to give my most emphatic support to the resolution which has been moved by my friend Maulvi Tamizuddin Khan. In doing so, I should like

to take the House back to the history of the legislation on the three questions involved in this resolution. The Maharaja of Kasimbazar has referred to the existing Tenancy Act, which was passed as recently as 1928; I may remind him that even at that time and long before, the tenants all over Bengal had been strenuously opposing the provisions as regards landlord's fee, and the right of pre-emption, which have been incorporated in the present Act. How that Act was passed is perhaps well known to most members of this House. I should like to remind the Hon'ble Member in charge of the Revenue Department who piloted the last Tenancy Bill, that the tenants in a body were then opposed to these obnoxious provisions in that Bill, but they could not succeed in their protest because their representatives were not in a majority in the then Council and those who were expected to support their cause deserted them at the last moment and went over to the other side. Since then, the landlord's fee has become a source of great discontent to the tenants. The *ryots* have all along been against it, and since the incorporation of this provisions in the present Act, they have come to resent it. I believe this is known to Government, if they at all care for the feelings of the tenants of this country. It is an indisputable fact that there is a very large amount of dissatisfaction against these provisions amongst the tenants, who not only form the backbone of the country but who also constitute 80 per cent of the population.

Wherever we go, we meet with organizations of tenants—we find *praja* parties and *krishak samities*, whose main aim is to improve the lot of the peasantry by the annulment of these provisions in the Act

Sir, I do not wish at the present moment to go into the merits or demerits of these three particular items. I shall, however, with your permission, touch generally upon the three points raised by the Maharaja of Kassimbazar. He has assumed, to begin with, that the *zamindars* were the real owners of the land—a proposition from which I strongly dissent. He has cited the Tenancy Act of the 80's of the last century, but I would request him to go beyond that year to a period prior to 1793, and ask him whether landlords were the real proprietors of the land. Any one who knows anything about the land-tenure system of Bengal cannot deny the fact that prior to that date the farmers were the real proprietors of the land. This position of the landlord *vis-à-vis* the tenant was suddenly changed by one stroke of the pen for the convenience of a third party. It does not lie in the mouth of the landlords to repeat in season and out of season that they were the real owners of the soil, and that the tenants existed at their pleasure and sweet will.

Then, again, he said that the occupancy right was not transferable. There, again, I dissent from his proposition. The Tenancy Act of 1885 does not contain any provision as regards this question: it is silent on the point. It does not say whether the occupancy right was transferable

or not. It left the question open. Ultimately, it was recommended by the High Court that the law should be made more definite in this respect. If we were to refer to custom, I might say without fear of contradiction that the custom in Bengal has been in favour of the transferability of occupancy rights. I might go further and say that the custom of extorting *salami* from the tenants is of comparatively recent growth. The *zamindars* refused to recognise the transferee, and the tenants had to pay *salami* without which the *amlas* or officials of the *zamindars* would not recognise them as tenants. That is how this question of *salami* came into being. If, as I say, the *raiyats* are the real owners and proprietors of the soil, can the landlords realize a *salami* of 20 per cent. when they themselves do not pay anything to Government when their own *zamindary* is transferred? Even if they have a right to *salami*, is it meet and proper that so much as 20 per cent. should go out of the consideration-money? What is the effect of this? If a *raiyat* wants to sell his land, and if the proper price of the land is Rs. 200, he has got to pay Rs. 40 out of this sum, and he gets only Rs. 160. Not even that! There are lots of harassing provisions in the Act according to which he is deprived of large amounts of money at a time he wants most of it. Then, there is the risk attendant on the right of re-purchase of the land which again is a provision unheard of in any part of the world. Why should the landlord have the right of re-purchasing the land, if the tenant chooses to sell his land to A, B or C? If a brother, say, a joint owner of a *zamindary* property, sells his land to another, the purchaser cannot be kept out on the ground of his being an undesirable person by Government. Why then should the landlord have this right?

It is a fashion, Sir, among the *zamindars* to shed crocodile tears for the *raiyats* as regards their right to sell their lands, that they are improvident and their lands pass to *mahajans*. I think, Sir, the same argument may be used against the *zamindars*. Old *zamindars* are gradually losing their *zamindaries*, and such properties are passing into the hands of new *zamindars*. Government are not taking any steps to prevent such passing of old *zamindaries* into the hands of *mahajans*. The tenants do not appreciate this so-called solicitude for them on the part of the *zamindars*.

6 p.m.

About the enhancement of rents there is the provision in the Act, as the Maharaja has said, by which the rates of rent can be enhanced; there is a provision by which the rents can also be reduced; but the rent of the *raiyat* can be reduced only on the ground of loss of fertility. The *raiyat's* rent can be enhanced on the ground of rise in prices of foodstuffs. If the landlord has a right of enhancing the rent of the tenants because prices of food crops have gone up, is it not logical and equitable

that the tenants should have a right of reduction of their rents when the prices of food crops go down? This year we all know the present economic condition of the country; the price of the staple food crops, such as paddy, has gone down by 50 per cent. of what is was before——

Mr. H. S. SUHRAWARDY: Twenty-five per cent.

Khan Bahadur MUHAMMAD ABDUL MOMIN: My friend says 25 per cent. and I believe it is so. If this is so, does any Act give the tenant the right of applying for reduction of rent because the price of food-stuffs has gone down? If I may be allowed to use a simile: what is sauce for the gander is not sauce for the goose. If the landlord has the right to enhance rents because the price of food crops has gone up, then it is just and fair that the *raiyats* should have the right of reduction of rent when prices have gone down.

Rai Bahadur SATYENDRA KUMAR DAS: Government does not reduce the revenue.

Khan Bahadur MUHAMMAD ABDUL MOMIN: That is a larger question. The Hon'ble Member in charge of Revenue may say that this is a thing on which it is the duty of a non-official member to bring a Bill. I remember, while voting for the landlords' fee in the Council when the Act was passed in 1928, that I said that this provision would be repealed very soon and an official member asked me "who was going to do that?" I said that I would do that. That was 3 years ago. That honour has not fallen on me. But, it is the duty of Government, who are the protectors of the people, to take into account the feeling of the cultivators and masses and to take action to relieve them of the disadvantages under which they are labouring and also to try to remove the great dissatisfaction which at the present moment exists among the cultivating classes all over the province. Government should not ask a non-official member to bring up such a Bill. I hold it is the duty of the Government themselves, who are the protectors of the people and who really represent the largest community, to go ahead and remove the grievances which, I do not think anybody can dispute, do exist at the present moment. I do not wish to go into the merits of this question because there will be another occasion when we shall be able to deal with it more in detail. But I say most emphatically that the feelings in the *mufassal* against these provisions are very strong. Whenever we go to *mufassal* the *raiyats* come forward and ask what the members of the Council are doing if they cannot remove these disabilities under which they are labouring and I think if Government make inquiries through their own men, they will support me in what I have said.

Mr. SARAT KUMAR ROY: Sir, I rise to oppose this resolution. I submit that in all fairness to landlords, the provisions of the law, referred to by the mover, ought to remain in the Statute Book.

It must be admitted that for the security and stability of public revenue, *zamindars* have been made responsible by the Government for the punctual payment of their dues. It is a serious responsibility for the *zamindar*. To discharge it, he must keep proper vigilance over the personnel of his tenantry, upon which he has to depend greatly for the timely realisation of his rents. He must see that no undesirable persons occupy his lands. That is the fundamental reason why he is given the right to refuse to recognise an undesirable transferee of an occupancy holding. So long as the *zamindar* is held responsible for the punctual payment of land revenue to Government, I think he must be allowed the facilities for collection of rents. Necessarily, he must have the right to refuse to recognise an undesirable person as his tenant.

It was by a compromise, if I may say so, with the tenants' party that the provisions for payment of the landlords' transfer fees and for the landlords' right for pre-emption were inserted into the Bengal Tenancy Amendment Act, 1928, and occupancy holdings were declared transferable without the landlord's consent.

Landlords are already feeling the evil effect of this change in the law. Indiscriminate transfers of occupancy holdings and their subdivision into numerous uneconomic small parcels of land, are steadily on the increase. The landlord's difficulties have thereby increased immensely.

He has now to maintain a larger number of accounts in his rent-roll than before.

He has to admit to tenancy, many undesirable persons, *pakhust* tenants, rich *jotedars* and dishonest speculators from whom he experiences great difficulty in realising rents and his collection charges have thereby been increased.

His difficulty in realising arrears of rent from the defaulters by suit has now become greater than before.

The economic worth of his estate has also materially deteriorated.

Having regard to the gravity and magnitude of the difficulties involved and the loss a landlord suffers, I submit the compensation which the law provides for him is utterly insufficient.

The right of pre-emption is a corollary to the right to refuse to recognise an undesirable transferee as a tenant. This right must be maintained for the landlord, so long as you allow the transferability of an occupancy holding against his will.

In despatch No. 6, dated the 21st March, 1882, from the Government of India to the Secretary of State for India, it was clearly stated

that "the landlord is fully entitled to choose his tenant in all cases of transfers, and that right of pre-emption will sufficiently enable him to guard his interests in this respect".

Under the present law, the landlord has no right to eject an undesirable transferee of an occupancy holding and obtain *khas* possession of the holding transferred. The right of pre-emption has been substituted for this right to eject, which the landlord formerly enjoyed. Its exercise is rather an advantage to the purchaser. He gets his money back with an additional 10 per cent. as compensation, whereas formerly, upon ejectment, he could get nothing. On the contrary, he would have been saddled with the costs of the ejectment suit.

In the next place, the existence of this right of pre-emption is a check upon collusive understatement of the actual sale price in the sale deed. It is not uncommon that dishonest purchasers and sellers collude together and put a lower value in the sale deed than the actual consideration money paid. And, by the way, I may mention that the insertion of a lower value in the sale deed also causes great loss of public revenue from stamps.

Under the present law, the correctness of the statement of value in the deed of sale cannot be questioned. It must be accepted by the landlord without question. His only remedy, therefore, lies in exercising the right of pre-emption. This right, therefore, is indispensable for the landlord.

If by legislation, you want to deprive him of this right, you must restore to him the right to eject an undesirable tenant, which he formerly possessed; otherwise, eventually, he will fail to discharge his obligation to the Government.

I am afraid, the effect of repealing the first two provisions of the law referred to in the resolution, would be to deprive the landlord even of the inadequate compensation which the law provides for him for his loss and inconvenience. Moreover, it will remove the only feeble check that now exists, upon the other evils that follow upon their wake, as I have pointed out.

Their ommission from the Statute Book will encourage further indiscriminate transfers and subdivisions of occupancy holdings. The consequence will prove disastrous to the landlords. Their position in the country will be more and more miserable. They will fail to realise rents regularly and I am afraid they will ultimately fail to discharge their heavy but primary responsibility to the Government. In all probability the administration will also suffer.

Hence I submit, that it is highly inexpedient to repeal these provisions of the law, which provide for the only remedy left to the landlord for safeguarding not only his own interests but also those of the Government.

Sir, I now turn to the proposal for repealing the provision for enhancement of rent.

It is an old controversy, more than half a century old. I do not like to enter into the details. I will only ask you to recollect that at the time when the Permanent Settlement of land revenue in Bengal was made, nearly one-third of the country was unproductive waste, consisting of jungles and marshes. The economic worth of an estate was poor. The revenue assessed thereon was exceedingly high. It consisted of 90 per cent. of the highest assets of the estate, inclusive of all *abwabs* then collected. At that time, it was a serious risk to accept settlement under the regulation. To fulfil their obligations under the terms of the regulation, the owners of many of the original estates were shortly ruined. Those who succeeded them, exerted their utmost for the improvement of their lands. They spent huge sums of money for the purpose. They undertook risks in the expectation that when the country will settle down by the blessings of good Government, they would be permitted to enjoy their fair share of the resulting economic prosperity which will then accrue to their lands. That was the only means whereby they could recoup the loss they had previously suffered. Their right to it cannot, and ought not now to be ignored.

Once you admit that they have contributed towards the economic development and the ultimate prosperity of the country, can you, in all fairness to them, refuse them their due share of the benefit derived therefrom?

In this connection, I must tell you that they have hardly enjoyed a fair share of the benefit during the first century after the Settlement. But throughout that period, they have borne ungrudgingly the entire burden of meeting the public revenue, according to the strict provisions of the sun-set-law, newly introduced by the Council.

Then, again, the rate of enhancement is limited to 12½ per cent. of the existing rent. An enhancement is only to be allowed after a period of 15 years and that, too, upon a clear proof of increase in the value of the staple food crops and improvement of the lands.

I am informed that this rate of enhancement is less than that which Government imposes upon the existing rents of *ryotwari* holdings in other provinces of India. It is also insignificant in comparison with the rate of increment of revenue which the Government is imposing even in this province, upon the existing revenue of temporary-settled estates.

Lastly, I must bring to your notice that like the landlord's right to claim an enhancement of rent, the tenants have also been given the right to claim a reduction of rent, if circumstances justify it. Section 38 of the Act clearly provides for it. I think the tenant can get adequate relief under that provision of the law. He need not seek to have the

provision for enhancement of rent repealed. I, therefore, submit that there is no justification for the proposed change.

With these words I oppose this resolution.

6-15 p.m.

Babu KHETTER MOHAN RAY: Sir, I rise to oppose the resolution moved by my friend Maulvi Tamizuddin Khan. If the resolution is accepted, this will have the effect of introducing a drastic and revolutionary change in the laws regulating the relationship of the landlord and the tenant in the province. The hon'ble mover of the resolution wants to abolish the payment of landlord's fee on the transfer of *raiyati* holdings and the right of pre-emption and the right of the landlords to enhance the rents of holdings altogether. But my friend has altogether lost sight of the fact that the provisions relating to landlord's fee and pre-emption were arrived at during the last amendment of the Bengal Tenancy Act by way of compromise between the landlords and the tenants, and these rights were conceded to the landlords for their surrendering their valued rights in respect of the transfer of holdings and conceding the right of free transfers to the tenants subject to the payment of transfer and to the right of pre-emption. If we examine the law relating to transfer, which obtained before the amendment, it will be evident that the landlords were made to surrender very valued rights which they were enjoying from time immemorial according to law and custom and usage of the country. Before the amendment, under the law which was in force then, though practice varied in different localities, but generally stated, when a *raiyat* sold his holding, the landlord recognised the purchaser as his tenant on payment of a *salami* which was generally equivalent to 25 per cent. of the purchase money. Or when in rare cases, the landlord refused to recognise the purchaser, he treated him as trespasser.

Of the two alternatives open to landlords, that of *salami*, which used to vary according to the whims and caprices of the landlords, has been made fixed and a uniform rate of *nazar* has been provided. The purchaser no longer depends upon the pleasure and sweet will of the landlord for his recognition; the landlord is bound to accept him as tenant as soon as the purchaser complies with the provisions of law. As regards the pre-emption, the rule provides a substitute for the other alternative, the option of ejectment suit which was then open to the landlord. It is clear to the meanest intelligence that as a substitute, it is certainly fairer and more equitable substitute For, in cases of ejectment, the purchaser lost or, at any rate, had the risks of losing both the land and the purchase money, besides incurring the liabilities of the cost of litigation and mesne profits, not to speak of the troubles and anxiety during the period when the litigation was being carried on. The reason which weighed with the framers of the law for enacting the

provision relating to post-emption is simply this—that it will have the effect of keeping down the tendency of the purchaser to put a lower value in sale deeds than the actual price in order to evade full payment of *nazarana*. The amount set forth in the sale deed would not be questionable in any manner by the landlord. But if these automatic checks were taken away, it was felt then that some provision would be necessary against under-valuation in sale deeds.

After the enactment of the provisions by the last amendment it has been seen that the provisions have worked fairly. There is scarcely any case of post-emption after the laws have come into operation. It will not be out of place to state here that some purchasers in order to avoid payment of *nazarana* were seen to describe falsely and fradulently the purchased holdings as being *niskar* or *kaimi*, *raiyati* or *mirash*. It is in some such cases that the landlords have taken steps to obtain remedies against these fraudulent acts.

The restrictions of time and procedure by which the rights of post-emption are hedged round are of great importance; besides, there is little uncertainty in the procedure provided by the amendment. The landlord, if he so desires, must take action within a limited space of time and procedure involved in it is as simplified as possible. It is clear to everybody that it is beyond the pecuniary capacity of any landlord in every case or in many cases to resort to the law of pre-emption and to take possession of lands sold in his estate. I hope that it will be conceded that the landlord is concerned to see that objectionable and undesirable tenants may not be forced upon him against his will and this is guarded against by giving a right of pre-emption in every case of transfer

The right of enhancing the rent of a holding has been enjoyed by the landlord ever since the relationship of landlords and tenants came into existence in this country. It is an elementary principle of jurisprudence and law of property that a man owning and possessing land has a right to lease it and is entitled to enhance the rent unless he has contracted himself out of such right. At present the landlord has not the unrestricted power of enhancement; he cannot enhance the rent either out of court or in court, at his sweet will and pleasure. Under section 29 of the Bengal Tenancy Act he can enhance rent to the extent of two annas per rupee. This must be done by a written and registered contract entered into between the landlord and tenant under certain conditions and limitations and within specified periods. If he goes to the law courts, his powers are restricted and hedged in by the provisions laid in sections 30 to 37. These provisions are, not by any means, capable of being easily complied with but are rather unnecessarily harsh and strict, and they are imposed upon the right of enhancement so that a landlord may not be able to resort to law for enhancement at his whim and pleasure. Over and above these the court is not bound

to grant enhancement in every case even if the provisions are complied with unless and until the court is satisfied beyond doubt that the enhancement will not cause hardship and that the land is capable of bearing such enhancement.

By this resolution my friend seeks to carve out certain rights out of the bundle of rights constituting property and vest them in the tenants by the operation of law. He wants to do a good turn to the *raiyats* by depriving the landlords of their valuable rights. This is to say that the hon'ble mover is anxious to pay Paul by robbing Peter. These proposals, if accepted, will produce catastrophic changes in the law and will undermine the foundation upon which the economic fabric of the province stands. The consequences will be disastrous to the country and the people.

I would like to refer here to one more point in this connection. We find that average rent per acre in Bengal where Permanent Settlement was made, is about Rs. 3-8, whereas the average rent per *bigha* in other provinces is more than three times the average rent that obtains in Bengal. Thus it is evident that the tenants in Bengal are far better off in Bengal where Permanent Settlement prevails than his confreres in other parts of India In spite of the power vested in the landlord by law to enhance rents, the landlord scarcely dare enhance rents against the combined opposition of the tenants Combination of tenants which they have learnt to use when occasions arise, is far more effective than any other checks provided by law. For, if the tenants combine and withhold rents, the landlord is at their mercy. In other provinces the Government make periodical settlements and enhance rents. Here in Bengal, the landlords, who have the statutory right to enhance rent, cannot resort to legal measures for enhancement against the will of the tenants owing to the restrictions provided in law and also to the combination of the tenants which is more effective than the statutory restrictions. Therefore we find in Bengal that tenants pay much less by way of rent than the rents paid generally by the tenants in other provinces where Permanent Settlement does not obtain. It is said that though the landlord has been given right to enhance on the ground of rise in prices of staple food crops, the corresponding power for decrease of rent has not been given to the tenants. But this is not the correct view of law. Section 38 empowers tenants to ask the court to diminish the amount of rent on the ground of the fall in prices of staple food crops.

With these words I oppose the resolution.

Maulvi SYED MAJID BAKSH: It is not for the first time that we are dealing with this question since we met in this House, and so far as this question is concerned, the arguments for and against it have been threshed out on more than one occasion. The whole situation

has been rendered difficult by that mischievous and misconceived piece of legislation called the Bengal Tenancy Act, which has been rendered more mischievous by the amendment of 1928, when provision for the first time was made about the payment of landlord's fee on the transfer of an occupancy holding, as also the iniquitous and injurious provision regarding pre-emption. Sir, I do not know of any place in the world where the right of pre-emption exists. It is only in this piece of legislation that this innovation was resorted to in order to benefit the landlords, who, while not entitled to the advantages already given to them, were given these further advantages by the enactment of 1928. At a time when all countries are marching on the road of progress, this fixed provision with regard to the tenants, made more inelastic by the enactment of 1928, is kept intact and while all over the world the rights of persons are being recognised more and more, here in this hapless land of ours the rights of the tenants are being denied more and more. I am tempted to describe the situation in the words of an eminent writer who said that at the time of the French Revolution the country was as it were stretched like an *heraldic* parchment beneath which smouldered a lake of fire. This is exactly the position to which we are being led in Bengal. While the prices of commodities are falling lower and lower, the rent remains fixed, and if this state of things continued, the situation would become more and more complex until, I am afraid, the same situation that was experienced during the French Revolution would arise here, and the tenants would be unable to bear the burden any longer, like the proverbial last straw on the camel's back. The situation that arose in Russia and other places will gradually come into existence here and the landlords will some day find that they are walking on a dangerous track. I will take the landlords at their own words. They claim that the Bengal Tenancy Act was enacted by a compromise, as a result of which the transfer fees and some other benefits which might accrue from the provision of pre-emption were secured to them. I would ask the landlords how far they have been benefited. Questions after questions were asked in this House and it was elicited in the replies that large portions of transfer fees had remained unremitted. I have on past occasions remarked in this House that the Bengal Tenancy Act has defrauded both landlords and tenants. It has defrauded the tenants by making compulsory the payment of transfer fees and it has defrauded the landlords by making the provisions so intricate that the landlords will never get the transfer fees, which will some day be credited to the district boards under the Local Self-Government Act.

6-30 p.m.

I would rather sympathise with the landlords when I find that they are being deprived of the money which they ought to get under the Bengal Tenancy Act. But, really speaking, we find that they are not

getting it. I would rather ask the landlords to come to a more reasonable frame of mind and not to insist on a thing which they cannot get under the intricate and complex provisions of the Tenancy Act. It is impossible to realise the fees, but yet they are trying time after time in the vain hope that some day they would be able to get that amount. They are chasing the Jack o'lantern in this matter. They are living in a sort of paradise which is entirely their own. I would therefore ask the landlords to come and assist us in repealing these provisions of the Tenancy Act which have been objected to by everybody who has got anything to say that matters, so far as transfer fees are concerned. I have been told in this House that the landlords are the owners of the soil and, therefore, as owners of the soil they are entitled to certain rights which are being curtailed or taken away from them. Much has been said in this House as to the proprietary rights of the landlords over the tenants. Many eminent persons have given a history of the *zamindary* system and the complicated system of rent. I would like to point out to the landlords that truly speaking they are not the owners of the soil. I do not like to repeat the familiar Marxian argument which was repeated on previous occasions that you cannot be proprietors of the soil unless you occupy the lands by sheer force. By gradual analysis you will certainly come to the position in which you will find that ownership of land means long occupation by violence. If you say that ownership was given to you by the Permanent Settlement by the British, I would like to point out that even the British themselves will find it difficult to prove that they have got such ownership. They were merely the *diwans* under the kings of Delhi. If you go on in this way, you will not be able to support your position. Therefore if you make a claim as of right, you are particularly in a bad position. You say of custom, but your customary right must be of a very recent origin as compared with the customary right of the tillers of the soil. The rights of the tillers of the soil date from time immemorial, but your right cannot go back more than 1793 so that you are still on a very wrong ground if you say that your right to the land is customary. I would further point out in this connection that the right of pre-emption is foreign to the idea of real property. The right to real property presupposes the right of transfer. This right to transfer of property has been recognised all over the world and even in a country like England where proprietary right forms the very basis of their land system, you will find that the right of pre-emption is not in existence.

As regards enhancement of rent, one of my friends has pointed out that section 38 of the Act gives the tenant the right to reduce his rent just as the other section gives the landlord the right of enhancement. There is a good deal of difference between the two. Whereas the right of the landlord is a statutory right, it works by itself and at the end of

15 years he is entitled under the law to enhance the rent, whatever the amount may be, I do not mind. Of course my friend has said that the rate of enhancement is only 12½ per cent.; I do not think he is right. Only in the case of enhancement by contract that 12½ per cent. is allowed. Here in section 38, we find that the right is given only to the occupancy *raiyat* and he must prove that the fall of price is not due to a temporary cause.

Prices of food and cloth have fallen owing to a slump in the world trade. It is impossible for the tenant to show a permanent fall. When it comes before the court, the court will consider whether it is due to a permanent cause or a temporary cause and the court will always say that it is a temporary cause and not a permanent cause. Therefore I say that these provisions of enhancement of rent are different in the case of landlords and the tenants. In these days where there is a sudden fall in prices, the tenant feels it and, therefore, requires protection—even if it is a temporary cause that produces hardship on the tenant, he is entitled to a reduction—and this is denied to him. This question has been dealt with very elaborately and I hope the House will accept this resolution.

Rai Bahadur KESHAB CHANDRA BANERJI: I rise strongly to oppose this resolution. It is an attempt to deprive the *zamindars* of the small privilege they enjoy under the Bengal Tenancy Act and for the matter of that under the Permanent Settlement. I cannot admire the wisdom of the hon'ble mover in bringing forward a resolution like this at a time when we are on the threshold of momentous constitutional changes. Apart from this, it hardly reflects any credit on the part of Maulvi Tamizuddin Khan in disturbing the harmony of this House by raking up an old question—a question which was discussed threadbare on the floor of this House in connection with the amendment of the Bengal Tenancy Act in 1928. It passes my comprehension as to what necessity has arisen during this short space of time to ask Government to embark upon a piece of legislation which is calculated to take away the last vestige of the rights which the landholding community has been enjoying for nearly half a century.

When the Bengal Tenancy Amendment Bill was on the legislative anvil, these and such other questions were fully discussed and the representatives of the landholders yielded on several vital points only to meet the wishes of the tenants as reflected through their agents in the old Council. It was by way of compromise that the *zamindars* were conceded the provisions regarding landlords' transfer fees, pre-emption, enhancement of rent, etc.

The arguments advanced by the mover of the resolution are hardly convincing. To me the whole of the speech which he delivered seemed

to be a long piece of *non-sequitur*—a glaring instance of fallacious reasoniug. Both Mr. Tamizuddin Khan and Khan Bahadur Abdul Momin cast their nets very wide and wanted to drag in all manner of arguments within the meshes of their sophistics. The time at our disposal hardly permits of a lengthy discussion of the points before the House, for I feel that justice cannot be done to them without a detailed treatment of the case with special reference to the laws on the subject.

Sir, it is difficult to understand the mentality of those who in season and out of season seek to introduce measures or call for the introduction of measures which are designed to revolutionise the tenancy system in this province and create unnecessary ill-feeling between the *zamindar* and the tenant.

It is all very well to ask Government to introduce measures of this kind, but before doing so the supporters of the resolution should request Government to effect a corresponding reduction in the land revenue and cesses so as to be consistent with the principles which they enunciate with such insistence. But since that is not possible, I would request the mover to withdraw the resolution. I wonder if the resolution has been brought forward in view of the coming elections. If that is the case, then I have nothing to say; rather, I have full sympathy with the object and aspirations of the mover and his supporter whom I would like to see returned to this Council in future elections.

Khan Bahadur Maulvi AZIZUL HAQUE: I would only reply to one point that has been raised by my friend Rai Bahadur Keshab Chandra Banerji. It is perfectly true that a resolution of this character is not meant to be confined within the four corners of this House; it is meant to go forth in the midst of the tenants and landlords. But none in this side of the House has visualised for a moment the idea underlying this resolution. I believe, and I am convinced, that other things are coming very soon, as they must one day, and whether they would revolutionise everything in their way I do not know, but I know this much, that they would bring about a much-desired relief to the millions who are working under the present system.

6-45 p.m.

I do not wish to take up much of your time, for I know very well that it will be futile to carry on this discussiou much further. Sir, controversialists have discussed again and again the question whether the cultivators are the real proprietors of the soil, or the landlords are the real proprietors of the soil, but this question has not been settled as yet. Still I would ask once again, in spite of the arguments of my friend,

Rai Keshab Chandra Banerji Bahadur, whether he considers it fair that at the time the Permanent Settlement was initiated, the understanding was that only slavery was to go to the tenants and enhancement of rent to the landlords only! Sir, what was the provision under which or by which the land revenue of the province came to be fixed in perpetuity and the tenants would continue to pay enhanced rent from year to year? After all, if you are to pass a measure, let it be such as is in consonance with equity and justice.

Sir, much has been said about the compromise. Not that on this side of the House there were no leading movers in connection with the Bengal Tenancy Amendment Bill, but I can tell you that none of us were a party to the compromise measure, which was carried behind our backs in the midst of a discussion which went on in a certain chamber in which we were not present. But I must say here to the credit of a man who is now in jail, I mean Mr. J. M. Sen Gupta, that he tried his best to reduce the *salami* to 10 per cent. but could not succeed in view of the opposition offered by a certain number of members at the time; so that all the relief that was given by this House to the tenants of Bengal was a *salami* of only 20 per cent. instead of 25 per cent. Sir, this is the only relief that was given to the tenants of Bengal under the amended Tenancy Act. To call it a matter of compromise is only a travesty of facts, and to continue it much longer is simply not to see the future, and I definitely repudiate the statement that there was anything in the nature of a compromise. So far as this side of the House is concerned, history will show, and if my friend, the Rai Bahadur, in the midst of his multifarious work, has the time and patience to go to the Council Library, he will see, that not only once but repeatedly on the floor of the Town Hall divisions were called by us, but we were not successful as we are in a minority. But we are perfectly certain that success will come to us in the future. It is at least open to us to change some of the provisions, but whether we shall be able to do so now or in the immediate future is not known to anybody. But I must say that if the spirit that is animating us to-day still continues to animate us, we are sure to get this relief out of the *zamindars* for the tenants, for the more the opposition the landlords offer to this measure the surer becomes the chance of having it passed. The fate of this resolution is known to us, but nevertheless I must give my full support to it. Sir, you may not repeal the pre-emption or the *salami*, but can any man honestly maintain that the *enhancement* provision should remain any longer?

Babu AMULYADHAN RAY: Sir, I do not know how to thank my hon'ble friend Maulvi Tamizuddin Khan for bringing this resolution. Ever since I entered this Council year after year, session after session, I have been putting this motion; but unfortunately to myself

and unfortunately to the people it has never come up. I shall repeat to-day what I said before in one sentence before the hon'ble members. In the year 1928 in the sacred house of Town Hall a great sin was committed, and that was the greatest crime that has ever been committed in a House of Liberty from 1921 to 1932. By an unholy combination of the so-called self-styled proprietors of the soil, the creatures of the Permanent Settlement—permanent folly of Lord Cornwallis—the *swarajist* gentlemen under the banner of the Congress who at the time of election overflowed the land with the tears of their eyes for the people and the then Hon'ble Member sitting on the Treasury Bench acting under the instructions of the Government—a time-server machinery—the tenants of Bengal were slaughtered by three cuts—cut of landlord's fee, cut of pre-emption and cost of transmission. If then 80 per cent. of the people, generally the Moslems and the depressed classes, had understood their real position, the whole country immediately after the passing of the amending Act would have been electrified and the gentlemen who betrayed the confidence of the tenants to fill up the pockets of the landed aristocracy would have been crucified. Time is not far off when the tenants will awake, arise, and throw the Bengal Tenancy Act, never to return, to the Bay of Bengal by tearing it into pieces, by legislation and we are looking forward to a day when the "Bengal Landlords' Act"—wrongly called the Tenancy Act—will have a decent burial underneath this Holy Chamber. Then, Sir, in the year 1929, Mr. Jitendralal Bannerjee tried to revive them without any success by tabling a resolution, as some representatives of the tenants fled 100 miles off from this Council Chamber, leaving the tenants at the mercy of the Almighty who proved less mighty to the mightier force of this House.

The Maharaja of Kasimbazar has said that the *zamindars* are the proprietors of the soil. I do not deny that they labour under a delusion in thinking that they are the proprietors of the soil. Let them remain content with that foolish and false idea. We do not grudge it; but a class of gentlemen performing the duties of tax-collectors, having got nothing to do with the land or with its improvement, can never be owners of the soil. The people who are directly connected and interested in the land, have brought it under cultivation and made improvements are undoubtedly the owners of it. The landlords had no right whatsoever to have any share in the money obtained by the tenant in transferring his land; but by legislation they were given the right to a thing to which they were not entitled. It has been said on the floor of this House that the amending Act was the result of a compromise. The contending parties were the *zamindars* and the tenants. Certainly the Hindu tenants had practically no representation in the Council. The few who were voicing their feelings in favour of the tenants fought the battle along with our Muslim brethren;

but they lost it, being in a neglected minority in the Council as at present constituted. The Congress gave their ticket to the *zamindars* at the time of election. Besides, the *zamindars* under the Congress fold in the Council were the members mostly belonging to the so-called upper classes having conflicting interests with the tenants. The interests of these two classes of gentlemen, namely, the *zamindars* and the so-called upper classes under a common political group, namely, the Congress, were bound together. Thus the same class of gentlemen having same interest divided themselves—one pretending to be the representatives of the tenants and the other assuming the character of the Indian Shylocks. Because the depressed classes and the Muslims were not in the Congress, the Congress members in the Council apprehending that their political organisation would be buried under the soil, left the tenants bound hand and foot to the landlords by sailing in the same boat with the landed aristocracy, and shame indeed that the loud political criers of the country who do not find any reason with the oft-quoted bureaucracy did not hesitate even for a moment to lend their support to the Government in the interest of a handful *zamindars*. This is the compromise!

The landlords' transfer fee has ruined the tenants but has done no good to the landlords to the extent they expected. The life and soul of the tenant is his land which he never parts with except in time of adversity. The value of the land has gone down by 75 per cent. There is no buyer in the market. Government revenue has fallen off abnormally. The purchaser does not want to pay the land-transfer fee. It is paid out of the *salami* by agreement. The whole burden of this mischievous fee has fallen upon the land. The result is that the land-transfer fee coupled with the general economic depression of the country has entirely paralysed the activities of the tenant in their free transfers.

The evil aspect of the land-transfer fee has not ended there. It should be repealed without a moment's delay in the interest of the landlords themselves and the Government. The payment of proper transfer fees is very often evaded by misdescription of interests.

Sometime the intending seller brings a rent suit as plaintiff against the intending buyer making him a defendant and ultimately a *solenama* is filed by both the parties admitting some sort of a *jama* suitable to their purpose. Thousands and thousands of rupees of fees are rotting in the collectorate, for to get the landlords' fee is to take one month's time: to withdraw a rupee is to incur a cost of four. The land-transfer fees to be paid at the time of registration of documents transferring occupancy holdings have thrown upon the Registration staff a large amount of additional work of considerable responsibility

and complexity as has been said by the Inspector-General of Registration in his Triennial Report on the administration of the Registration Department in Bengal for the year ending in 1931. Many registration offices are being abolished for want of any work. The number of registered documents is falling off day by day.

I do not wish to take the time of the Council any longer dwelling upon the right of pre-emption and enhancement, as much has been said by my hon'ble friends on the other side.

With these words, I support the resolution.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I oppose this resolution. This resolution goes directly against the legal rights of the *zamindars*. These legal rights of the *zamindars* have already been ruthlessly trampled upon by the Government. And the small portion of these rights which still exist—this resolution wants to do away with them altogether.

This resolution apparently wants to increase the rights of the tenants under the Bengal Tenancy Act—as it exists in a bruised condition against the rights and interests of the *zamindars*. I use the word "apparent" deliberately, because on a subtle analysis it is clearly found that this resolution does not help the tenants materially, rather in many respects it goes against the interest of the tenants.

Sir, I will take the three provisions of this resolution one by one; and I will show the fallacy of mock patriotism which underlies it.

You want to diminish the amount of landlord's fee and ultimately to abolish it altogether. This is the objective, clear and simple.

Let us see how the transaction is carried on. One tenant sells his land. Who buys it? Either another tenant or the money-lender. Sir, with 200 crores or thereabouts—agricultural debts in Bengal—one tenant cannot buy another tenant's land. Decidedly the money-lender buys it, and the buyer pays this landlord's fee. Again, if the buyer is a money-lender—and if he pays a fixed and small portion to the landlord out of his purchase money, how the tenant is affected? At any rate, the buyer who can pay the purchase money, can pay the landlord's fee as well, because the full purchase money is calculated as (*a*) the price of the land and (*b*) landlord's fee. And ultimately it is based upon the general economic principle of demand and supply. Landlord's fee is calculated as a fixed portion of purchase money, i.e., the full price of the land. The seller of the land takes almost the whole of the full price—only a small portion automatically goes to the landlord. This is what happens; how this affects or hits the seller or buyer I do not see.

Then comes the question of the right of the landlord to this small portion of the purchase money. You can deny the landlord this right

(you have already denied it to a very large measure by making the occupancy right transferable) only when you assume that the landlords have no proprietary right on the land. Land is the exclusive property of the tenant.

7 p.m.

This is just the reverse of what was accepted in 1793 by Lord Cornwallis. When the Government made contract with the landlords, rightly or wrongly, they accepted it to be granted that land is the exclusive property of the *zamindars*. Non-transferability of occupancy right meant that there was no ambiguity in that.

Now, Sir, you want to give the proprietary right of the lands exclusively to the tenants.

The Government may do so if they are so disposed. I see that Government have already marched a long way in that direction.

But, I pray, Sir, what compensation the Government propose to make to the Bengal *zamindars*? If without any compensation the Bengal landlords are thus ousted from their rights to land since the last 139 years, I should think that Government will be doing an act of injustice to the *zamindars*, the parallel of which you cannot find in the recent history of Bengal since the battle of Plassey.

By abolishing the landlord's fee along with the right of pre-emption—as you propose to do—you throw the tenants into the clutches of the money-lenders. You really do not help them, but make them the victims of the money-lenders. And the landlords who have been protecting the tenants to some extent against the money-lenders all this time, cannot protect them any more. The relief which this measure is expected to give to the tenants is only "apparent" and not real.

Now, Sir, coming to the second provision of the resolution, we find that it wants to abolish the right of pre-emption granted to the *zamindars*, and why? Priority is an accepted principle of law. At any rate, it is neither a new principle, nor a bad principle. There are legal authorities here, and they can testify to it. For the same price if the landlord gets a priority, I for one fail to see how it affects the seller injuriously.

If the tenants have been involved in a total debt of 200 crores, the *zamindars* also have already mortgaged three-fourths of their *zamindary*. If agricultural debt is a problem, the *zamindar's* debt is no less a problem to the nation at large. Both the tenants and the landlords depend upon the same land to pay back even a portion of their debts. But if you rob the *zamindars* of all their rights, you virtually make them incapable to pay back their debts. Abolition of pre-emption will abolish the last straw of *zamindars* rights and make the *zamindars*

incapable of paying back the loans they have incurred. Do you want it? Will it not recoil on the tenants? The death of the *zamindari* system is sure to bring disorder to the present economic system of the country.

To the third provision my answer is as follows:—

(*a*) The proposed enhancement is very insignificant.

(*b*) Rise in the prices of productive land depends upon the general rise of prices in the world market. If tenants can avail of it, why not the *zamindars*? Is he not a partner in the proprietorship of the agricultural land?

Sir, with these few remarks I most emphatically oppose each and every one of the three provisions of this resolution.

Mr. PRESIDENT: Discussion on this resolution will be resumed on the date allotted for resolutions.

Adjournment.

It being 7 o'clock, the Council was adjourned till 3 p.m., on Tuesday, the 22nd November, 1932, at the Council House, Calcutta, without question put.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 22nd November, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, two Hon'ble Ministers (the Hon'ble Mr. K. Nazimuddin being absent) and 102 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Withdrawal from the Mymensingh District Board of the right of electing chairman.

*11. **Maulvi TAMIZUDDIN KHAN:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(i) since when the right of electing its own chairman has been taken away from the Mymensingh District Board,

(ii) how long do the Government intend to continue the ban; and

(iii) whether there is any proposal under the consideration of the Government for the restoration of the right to the Board?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (i) 8th July, 1929.

(ii) No decision has yet been reached.

(iii) The matter is now under consideration.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state on what grounds was the right of electing their own chairman taken away from the Mymensingh District Board?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I want notice.

Chittagong-Arakan Road.

*12. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) how much money allotted for the Chittagong-Arakan Road as recommended by the Bengal Road Development Board will be spent this year and next year;

(*ii*) under whose disposal will the money be placed; and

(*iii*) whether the road will run parallel to the Arakan Railway line, *viz.*, Patiya, Dohazari, Padua, Chunati, etc., or *via* Chandpur, Jaldi, Barabakia, etc.?

(*b*) Are the Government considering the desirability of having the road through Chandpur, Jaldi, Barabakia, etc., as being the convenient and shortest route?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) (*i*) It is impossible to give this information till the detailed estimate has come in.

(*ii*) The money will be placed at the disposal of the district board.

(*iii*) The proposal is for bridges to be constructed on the former of the two roads mentioned.

(*b*) No.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Proposed grant to the Malda District Board from the motor vehicles tax.

3. **Mr. SHANTI SHEKHARESWAR RAY:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state the amount Government proposed to grant to the Malda District Board from the proceeds of the tax imposed under the Bengal Motor Vehicles Tax Act, 1932?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: No decision has yet been reached.

The principles on which the proceeds of the motor vehicles tax should be utilised were discussed at the last meeting of the Road Board,

which decided that figures should first be obtained as to the mileage of roads of different classes maintained by each district board and municipality: and inquiries have also been made as to the principles followed in other provinces.

•

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state if the Road Board has anything to do with the disposal of the proceeds of the motor vehicles tax?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, it was at the instance of this House that the Road Board was given power on the advice of the Government to dispose of the proceeds.

Motions for amendment of the Standing Orders.

The following motions were called but not moved and, therefore, deemed to be withdrawn:—

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(1) Amendment of Standing Order 12 (section 24).

MUNINDRA DEB RAI MAHASAI to move for leave to amend Standing Order 12 as follows: —

In the second proviso to Standing Order 12, before the word "exclusive" the following be inserted, namely:—

"exclusive of such questions as may be disallowed, and".

(2) Amendment of Standing Order 63 (section 70).

MUNINDRA DEB RAI MAHASAI to move for leave to amend Standing Order 63 as follows:—

In the second proviso to Standing Order 63, before the word "exclusive" the following be inserted, namely: —

"exclusive of such resolutions as may be disallowed, and".

NON-OFFICIAL MEMBERS' BILLS.

The Calcutta Municipal (Amendment) Bill, 1931.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to present the report of the Select Committee on the Calcutta Municipal (Amendment) Bill, 1931, by Munindra Deb Rai Mahasai.

MUNINDRA DEB RAI MAHASAI: I beg to move that the said Bill, as reported by the Select Committee, be taken into consideration.

The motion was put and agreed to.

MUNINDRA DEB RAI MAHASAI: I beg to move that the said Bill be passed.

The motion was put and agreed to.

Mr. MUKUNDA BEHARY MULLICK: I beg to move that the Calcutta Municipal (Amendment) Bill, 1931, be referred to a Select Committee consisting of—

(*1*) The Hon'ble Minister in charge of the Local Self-Government Department,

(*2*) Mr. H. P. V. Townend,

(*3*) Rai Bahadur Dr. Haridhan Dutt,

(*4*) Khan Bahadur Maulvi Alimuzzaman Chaudhuri,

(*5*) Munindra Deb Rai Mahasai,

(*6*) Rai Sahib Rebati Mohan Sarker,

(*7*) Mr. K. C. Ray Chowdhury, and

(*8*) the mover,

with instruction to submit their report before the 21st December next and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

In bringing forward this motion I regret that this unfortunate Bill, though very short, has a chequered career. It was introduced by me in this House so far back as July, 1931, and my motion merely for a circulation of the same for eliciting public opinion was opposed by one of my hon'ble friends and it had to wait. It was subsequently circulated and the opinions thereon have been received and it has now come up for your consideration as to whether you would agree to the principle involved in this short Bill. In the Statement of Objects and Reasons I tried to explain the position as clearly as I could If you would be good enough to refer to the same, you will find, Sir, that this is an added area—area added to the Calcutta Corporation, as a result of the Calcutta Municipal Act of 1923. Before that date this area was an independent municipality by itself known as the Manicktolla Municipality. The Act of 1923 absorbed the suburban municipalities. I shall not enter into a detailed discussion into the composition of this area, but I must refer to one thing, as I have done in my Statement of Objects and Reasons, that this area originally consisted

of 3 wards; and when this was absorbed by the Act of 1923, the old ward No. 3 became ward No. 28, while the old wards Nos. 1 and 2 have now been amalgamated into one and it is the new ward No. 29.

This short Bill of mine was circulated for eliciting public opinion. Some of the public bodies, such as the Marwari Association, have supported this Bill. Others, again, such as the Bengal Chamber of Commerce, did not support it on the ground that all the details were not available. The Corporation of Calcutta has also submitted its opinion. It transpires that the Corporation had a special committee of eight councillors appointed for this purpose. This committee held several meetings over this matter, where they took the opinion of the representatives of the ratepayers of this particular ward. The Corporation had to admit that there was a disparity in this ward No. 29 which with its larger area, larger number of population with a larger number of voters, greater mileage of roads and drains, has to be satisfied with one elected hon-Muhammadan councillor, while the new ward No. 28 with lesser area, lesser number of ratepayers and lesser number of voters and so on, has got two elected non-Muhammadan councillors. This Bill only aims at doing away with some of these iniquities and that by only the least possible resistance. For it does not desire to disturb the two elected non-Muhammadan seats of ward No. 28. All that it desires is to increase the area of that ward by adding a small portion to its north by taking it off from ward No. 2 from its south. The northern boundary of ward No. 28 is Narkeldanga Main Road and the present Bill aims at making the Manicktolla Main Road to be its northern boundary. By this measure this little portion between the Manicktolla Main Road and the Narkeldanga Main Road with all its bearings is to be taken off from ward No. 29 and is to be added on to ward No. 28.

The report of the Corporation of Calcutta on this Bill shows unmistakably that there is certainly disparity in favour of ward No. 29. You will find therefrom that the total population of ward No. 28 is 33,235, while that of ward 29 is 42,399; the area of the former is 836 acres, while that of the latter is 1,338 acres; the number of non-Muhammadan voters, including male and female, of ward 28 is 967, while that of the latter is 1,630. I shall not enter into further details. But this is the index of the whole situation. The Muhammadans have two seats jointly for wards 28 and 29; so this redistribution of area, as aimed at in this Bill, will not affect their position in the least.

The only objection that the Corporation of Calcutta could have thought of was that the question of redistribution of wards should not have been taken up in a piecemeal manner. Nothing would have been more childish than an argument of this sort. In their ingenuity the Corporation quoted other instances of disparities prevailing at some

other wards. If this is so, remove them by all means. But this cannot certainly mean that no attempt should be made to remove those in areas from where the same can be done. Again, if this were any reason at all, all amending Acts must go. I do not know if the Hon'ble Minister in charge of the department will take this as a lesson in considering his own amendment Bill to come up on and from Monday, the 28th instant. Before the Act of 1923 got through the Council, the Corporation of Calcutta were consulted and they in that report suggested that the Manicktolla Main Road was to be the boundary between the two wards 28 and 29. How the same was changed into Narkeldanga Main Road in the Council passes one's comprehension, although one is not unfamiliar with the order of business of the legislature. Arguments, as indicated above, I make bold to say, are no arguments at all. But I think the Government might say that there is a provision in the Act of 1923 itself, by which the Corporation might redistribute their own areas and that body should have been first approached for the purpose before introducing a Bill of this sort in this House. But, Sir, if such an argument were advanced, my answer to that would be that the people of ward 29 did not formally petition the Corporation of Calcutta and they did approach the authorities, and I am told they turned a deaf ear. Their attitude with respect to the other Bill of my esteemed friend, Munindra Deb Rai Mahasai and their report on this short Bill of mine, are indications enough of the attitude they would have taken, if they were formally approached for this purpose. I venture to think that when, as the facts show, there are other inequities in the two wards, the proper remedy and the only remedy, is in a little redistribution of areas in the way I have suggested in this Bill. If there is any misapprehension, the same can be set right by the Select Committee in which I have the consent of one, amongst others, who was himself in the Corporation for a large number of years and who was the second non-official Chairman, I mean my hon'ble friend Rai Bahadur Dr Haridhan Dutt. Besides the Hon'ble Minister, who has also personal experience of the present Corporation of Calcutta will be the Chairman of the Committee. They can go through this Bill and suggest remedies in case there is anything wrong.

With these words, I commend my motion for the acceptance of the House.

3-15 p.m.

Mr. PRESIDENT: I do not propose to take up the amendments at this stage. To save the time of the Council I shall split up the motion into two and put the first part first to ascertain if the House is in favour of referring this Bill to a Select Committee. Members, however, may discuss the principles of the Bill now.

Mr. P. BANERJI: Sir, I beg to support whole-heartedly the motion which has just been moved by Mr. Mukunda Behary Mullick. We have already accepted the principle of converting plural constituencies into single ones by passing the Bill of Rai Mahasai and, therefore, I consider that the House should give its whole-hearted support to the motion of Mr. Mullick.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this motion. The main argument on which this Bill has been thought to be justified is that the Corporation of Calcutta is not discharging its duties fairly and equitably to the two wards. One ward with a larger area has only one representative, while the other ward with a smaller area has two representatives and the needs of the larger ward are not being properly attended to. Before I enter into this question, I would like to point out that the Calcutta Municipal Act itself contains a section under which the Calcutta Corporation can recommend to Government any change in the schedules of the Calcutta Municipal Act for altering boundaries of wards. This matter was referred to the Calcutta Corporation for opinion along with other bodies. The Calcutta Corporation on very cogent grounds and on facts and figures have turned down the recommendations. On the other hand, they have definitely stated that no case has been made out for the readjustment of boundaries. Public bodies like the Bengal Chamber of Commerce, the Central Muhammadan Association and the Indian Association are all against it. Government are also against this Bill on principle. Sir, I may say that it will be carrying the principle of self-determination too far if this Bill accepted. In the case of Kalighat, I admit that there was at least some agitation in support of the Bill, but in support of this Bill there was no such agitation at all. We have heard about these grievances only from the mover of the Bill himself and from none else in the city. In these circumstances, Government find it very difficult to support this Bill. Moreover, Sir, the figures which have been placed at our disposal by the Calcutta Corporation will show that the interest of this ward has not been neglected. Whereas only Rs. 44,900 was spent on ward No. 28, Rs. 99,580 was spent during the last three years on ward No. 29 which has a larger area with a larger population. The mileage of drains and the number of privies also show that the interest of ward No. 29 has not at all been overlooked. Sir, the mover of the Bill has suggested that with the readjustment of boundaries there should not be much disturbance in the number of voters, but I would invite his attention to the figure of non-Muhammadan voters. The number is 1,728 in ward No. 28 and 1,108 in ward No. 29. The number would be 1,344 in ward No. 29 and about 628 in ward No. 28. So that does not make much difference. The proportion remains almost the same. Sir, a complaint has been made that these constituencies should be single-member constituencies. There are several constituencies in Calcutta

which return more than one member, so that the question requires looking into on considerations other than those put forward by the member-in-charge, and I would certainly discourage, and would request the House to discourage, any attempt made by individual members on very insufficient grounds to disturb the boundaries of the wards. The recommendations of the Calcutta Corporation on this question were carefully gone into by Government when the schedule was put into the Bill and I see no reason why Government should, on the recommendation of a single member or a group of interested persons, go back on the previous decision and disturb the boundaries of this ward without any sufficient justification. On these grounds I oppose this motion

The motion of Mr. Mukunda Behary Mullick was then put and lost.

The Bengal Money-lenders' Bill, 193 .

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to move that the Bengal Money-lenders Bill, 193 , be referred to a Select Committee consisting of

(1) The Hon'ble Member in charge of the Judicial Department,

(2) Mr. A. G. R. Henderson,

(3) Mr. Syamaprosad Mookerjee,

(4) Khan Bahadur Maulvi Alimuzzaman Chaudhuri,

(5) Mr. W. C. Wordsworth,

(6) Dr. Naresh Chandra Sen Gupta,

(7) Maulvi Abdul Hamid Shah,

(8) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(9) Mr. Narendra Kumar Basu,

(10) Khan Bahadur Maulvi Muhammad Abdul Momin,

(11) Rai Bahadur Susil Kumar Gangali, and

(12) the mover,

with instruction to submit their report by the 7th January next and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, at the outset I must explain, to avoid certain misunderstandings, the salient features of this Bill. At this stage, Sir, I only desire that the Bill be referred to a Select Committee and I may at once say that I shall be perfectly willing to accept any amendment of a reasonable nature which will not affect the main principles underlying the Bill but would make an improvement. One of the suggestions is that there

should be no distinction between rural and urban areas and I have tried to suggest that in the Bill itself. Much misapprehension exists as regards the question of registration. As I said before, my point of view is mainly to deal with, I frankly confess, a certain number of people who do not believe in the law of the land but in the law of the *lathi* and the only way to deal with them is to bring them under the purview of law, by which the children of the soil may be exempted and separated from those who have nothing to do in the country except to collect interest. I have given very careful consideration to the matter and in case it is found reasonable and not inconsistent with the other provisions of the Bill, it may be accepted in the Select Committee. Any suggestion by which the natives of the country, whether of Bengal or of any other part, may be exempted and only those foreigners who come for the purpose of money-lending only may be included, will be quite acceptable. But that is not an integral part of the Bill which, if accepted, will affect the merits of the Bill and I repeat that if any reasonable suggestions are made before the Select Committee, they will be accepted. The main point is about the compound interest. Compound interest has been abolished in all civilised countries and I do not see why it should be necessary for us in this country to have compound interest. I may here say to my friends on my left that this legislation has been copied from the English Money-lending Act which was passed in 1927 and it is a repetition of it without even the change of a comma.

3-30 p.m.

So far as section 14 is concerned, my purpose will be served if the debtors go to the court so that it may be possible to see in future that in the court of a munsif the rate of interest allowed is not excessive. In connection with the Banking Inquiry Committee, it came to notice that certain munsifs never allowed interest at more than 25 per cent to money-lenders, but unfortunately when those munsifs went away and others came in, they allowed 50 per cent. It explains that the court at the present moment is not in a position to find out what should be the extortionate rate. My point is that so far as the court is concerned, it should presume the rate as extortionate, thereby leaving it to the plaintiff to prove to the contrary. I have tried to enunciate the formula, but it will be open to the Select Committee to bring about an improvement, where possible, in the terms of the section so that it might bring in more relief to the agriculturists. I personally feel that the rate of interest, 9, 10 or 12 per cent., is very low, but we have to look to the factor that the money-lenders play an important part and I do not want at this stage at least to do anything that might be interpreted in any way to mean that the money-lending business is stopped altogether. I should be quite happy, if the Council desires that the rate of interest should be

lowered, but that is a matter entirely for the Select Committee to consider. The other sections of the Bill deal with the information to be given to the debtors. As regards the penal section, I do not for a moment see why, when a habitual thief who extorts money from others is brought within the purview of the penal laws, a man who extorts money through the machinery of the court should not be brought within the purview of the penal law. It is a matter for the Select Committee to consider whether the provisions of this section should be retained or not. I only want a reference to the Select Committee if the House accepts the principle that something more is needed to deal with the present evil. I appeal to the members that something more should be done on the lines indicated above so that it may be possible to deal effectively with the situation. I must congratulate that association of the landlords of Bengal—the British Indian Association—for the enthusiasm they have shown in support of this Bill. I hope that other members of the House will give similar support to the Bill. I need not say anything more on the money-lending business because that is known to all of them.

Rai Bahadur SATYENDRA KUMAR DAS: Mr. President, Sir, my motion in connection with this Bill is to send it for circulation to elicit further public opinion by the 31st January next. And that is what I think should be done. I have gone carefully through each and every one of the provisions of this Bill. The learned mover of the Bill admits that he has largely drawn from the English Money-lenders Act of 1927. He also admits that the Usurious Loans Act (X of 1918) has failed. But he thinks his present Bill, if passed into law, will succeed though he has not stated any fact or argument upon which he builds his faith. I am really at one with the mover of the Bill when he complains against the shameless extortions by money-lenders—not natives of the soil, who believe in the law of *lathi*. These Kabulis are Muhammadans. The Holy Quran is no check to them. The learned mover of the Bill hopes that the present Bill will be a check to them and others who extort interest at usurious rates and compel the civil courts to grant them a decree in the terms of those rates.

The mover of the Bill was apparently logical and thoroughgoing while he was drafting the provisions of the Bill. Because I see that he has made provision to punish the bad money-lenders with an imprisonment of one year and a fine of Rs. 1,000; not loan but cash. This is all good. And the object of the Bill is also praiseworthy. But my only fear is that it will not help borrowers. Rather it will put the borrowers under greater difficulties which, I am sure, the mover of the Bill does not want. And I may be pardoned when I say this. I speak from experience. In the money-lending business particularly in the rural

areas in Bengal the problem at the present moment is not the rate of interest, but the principal. The mover of the Bill, I am sorry to say, has come rather late.

Sir, the question of interest arises only when you lend and when you borrow. Beginning from the landlord to the tenant—everybody is a candidate to borrow and for that he need not equip himself with a license or certificate from the Magistrate, paying a fee of Rs. 10 to ascertain if he really has got the borrowing capacity. There is no provision of that sort in the Bill, but there is a compulsory provision of that nature for the money-lender. It is useless. The very fact that he can lend is his certificate. In rural Bengal to-day there is hardly any one to lend but every one to borrow. This is the fact. The question of interest, high or low, though a serious concern to the people at large is, I emphatically say, not the crying need of the hour. Can this Bill compel the money-lenders to lend? No, it cannot. Can this Bill make any provision to pay only a part of the principal of the agricultural debt from the *ryots*? And in return I stand guarantee to remit the whole of the arrears of the interest, simple or compound. No, it cannot

How I read the situation is this: that the amount of Bengal's agricultural debt must be ascertained first. It no longer stands at Rs. 100 crores, where it was at the time of the Banking Inquiry Committee. I shall not be surprised if the amount has become double by this time. Even in normal times two-thirds of this debt are never paid. And for the last 2 years nothing is paid back to the money-lenders. And the consequence is this, that the money-lenders have no money to lend. The money-lender himself has been reduced to the status of a borrower to-day. But the borrowing necessity is daily increasing in the rural areas to the effect that the borrowers are trying other means to extort money from the money-lenders. The numerous dacoity cases in almost all the districts of Bengal are a proof of it. On the one side we find Kabulis with *lathis* extorting exhorbitant rate of interest, on the other side we find gangs of borrowers in the role of dacoits, armed with guns looting the houses of the money-lenders in distant rural areas.

Standing in the midst of this chaotic condition if the mover of the Bill reduces the rate of interest or prohibits compound interest that will not solve the real problem. That will not touch even the fringe of the real problem. I again say I am willing to give up the whole amount of interest of our agricultural loan. But in return is the mover of the Bill prepared to pay me back only the capital of the agricultural debt? Sir, my apprehension is that if this Bill is passed, no money-lender in these bad days will advance loan to the agriculturists. And there is no other substitute for the money-lenders in rural areas. Land mortgage banks, as was suggested by the Banking Inquiry Committee, are still

an Utopia. Co-operative credit societies are themselves starving without capital. And it is no concern of the Government as yet to make provision on a large scale in this direction. Under these circumstances if you pass this Bill, you will put 80 per cent. of the rural population of Bengal—I mean the agriculturists—into greater hardship. A nation does not die for want of food so much as a nation dies for want of money in these days of industrialism and the state-monopoly of our banking system. Compound interest or the rates of interest depend mainly upon the tone and temper of the money market which again depends upon many other things. Legislation is a poor remedy in this matter, if remedy at all. I appeal to the mover who is a great student of economics that if the Government papers give interest after every six months which is another name for compound interest, why should it be a greater sin on my part to ask for the same Government system of payment of interest from the learned mover of the Bill when he will come to me to borrow

Now, Sir, the inconsistency is very prominent. The Government itself pays six-monthly interest And the learned mover of the Bill asks the same Government to penalise that same system of payment of interest How the Government can do that? I object to the Bill on the ground of this palpable inconsistency incorporated in it. Sir, if the village money-lenders are a party to this transaction of business—I hope you will admit that they are, then they should be given a chance to say We have not heard from them their opinion as yet with regard to the provisions of this Bill If you could delete the money-lenders, in future, from the money-lending business, if you could substitute the present money-lenders by Government-aided rural banks in accordance with the requirements of the borrowing section of the people, you send the Bill to the Select Committee. But as you cannot do that, I propose that this Bill at this stage should not be sent to the Select Committee and it should go for further circulation to elicit public opinion. And I submit that the Bengali translation of this Bill should be sent to the presidents of the union boards of rural Bengal Those who will be really affected by this Bill do not know as yet anything of this Bill. We have received no opinion worth the name from any responsible quarters upon which action can be taken.

With these words, I move that the Bill be recirculated for the purpose of eliciting opinion thereon by the 31st January, 1933.

3-45 p.m

Mr. ANANDA MOHAN PODDAR: Sir, during the last session of the Council the member in charge of the Bill, while introducing it, himself spoke in favour of circulation of the Bill and fixed 15th November as the date by which such opinion should be obtained. That date has passed only a week ago, but I am constrained to say that we have not

been favoured with a single opinion up to date. The proposed Bill is a measure of very far-reaching character and it affects a very large portion of the population of Bengal. Moreover, a legislation of this nature is introduced for the first time in this Council and it is fit and proper that before the Bill is sent to the Select Committee, public opinion of all shades and of those who are vitally interested in this piece of legislation should be well ascertained. I do not know to which representative bodies or associations the Bill has been sent for opinion, and I am sorry to inform you that a premier association, to which I have the honour to belong and which is most vitally interested in the proposed measure, I mean the Bengal Mahajan Sabha, has not yet been favoured with a copy of the Bill for expressing their opinion thereon.

Sir, the Bill was introduced the fag end of the last protracted session and the members of this House had very little opportunity to take part in the discussion or, so to say, to give attention to it. The time fixed for circulation was also very short considering the importance of the Bill. I do not see any reason or necessity for such a hurry in the matter. Had there been no sitting of the Council at present, the Bill would have automatically come up in the budget session next year and the public would then get some more time to examine it. So it is in the fitness of things that the public and the interests affected, in particular, would be given a better opportunity to express their opinion on it.

Provisions, such as to make registration compulsory, to abolish compound interest, to fix maximum rate of interest and to make habitual usury a penal offence, are surely novel factors in this country and they should be imposed after careful consideration and with the consent and approval of the parties concerned.

Sir, I have every sympathy with the purpose underlying this Bill, but I must say that there is ample room for doubt as to the effectiveness of legislation in these matters. I am quite alive to the evils of excessive rate of interest, not to speak of usury. Under the dead weight of their colossal indebtedness the Indian agriculturists are faced with utter ruin and it should be our first duty to save them. Then there is another aspect—the temptation of excessive profit in interest has led the money-lenders, either professional or casual, to invest their funds more and more on this business and has stifled the sources of capital for commerce and industry. Sir, the problem of rural indebtedness has become so acute to-day that it is no longer possible to depend on a Money-lenders' Bill or a Usurious Loans Act. Some constructive means should be found out to deal with the rural economics in a thoroughgoing manner.

Sir, the main object of the Bill is to save the poor agriculturists from the clutches of the usurers. The Usurious Loans Act of 1918 aimed at the same end and the court was given ample powers to decide whether

the rate of interest was excessive and whether the transaction was unfair. That law is still in force and in every suit between the creditor and the debtor the court decides according to the evidence put forward on these issues. The amended sections 16, 19A and 74 of the Indian Contract Act of 1899 also conferred upon the civil courts equitable jurisdiction to put a check on enforcing usurious rates of interest. According to some, these existing laws are quite inoperative and have failed to give relief to the poor debtors. But informed opinion is divided on the point. There is, in fact, ample room for doubt as to the effectiveness of legislation to regulate the terms of contract between the creditor and debtor. On the other hand, there is a Privy Council ruling to the effect that you cannot deprive the money-lender of his dues accrued on interest, even if the rate thereon be high, provided that there be no fraud or substantial unfairness in the transaction itself.

Sir, among the main object of the Bill we find the following:—

(1) to abolish compound interest;

(2) to secure maximum rate of interest for secured and unsecured loans;

(3) to make registration compulsory for all money-lenders who are not permanent residents;

(4) to make a debtor know all the informations regarding his loans;

(5) to make habitual usury a penal offence;

(6) to empower courts to take tender of money for loans as interest and principal;

(7) to make a clear provision which the courts shall follow in determining excessive interest and harsh and unconscionable transactions in giving effect to the Usurious Loans Act, 1918.

Sir, there is divergence of opinion in every land as to the regulation of the rate of interest. When the debtor with his eyes open enters into a contract with the lender, you cannot repudiate that sacred agreement. Of course if there be any fraud or unfairness in the transaction itself, that contract cannot stand.

The money-lender is the only credit agency for supplying the poor cultivator with money in his need. If you interfere with his business—so long he is fair and honest—he will be quite reluctant to invest money in loans. Other loan agencies such as loan offices, credit societies and land mortgage banks, etc., are not well-developed in this country. You can well imagine the plight of the agriculturists in case money-lenders discontinue the loan business.

Still we find that in every land there is always an attempt to regulate the rates of interest. Among the Hindus even so far back as

the times of Manu a maximum rate of interest was fixed. The Muhammadans consider it a sin to realise interest. The Jews do not realise interest from their own caste people. In England and other European countries various enactments have been made to regulate the rate of interest during the 19th and 20th centuries. The present Bill is mainly drawn from the English Money-lenders' Bill of 1927.

One of the objects of the Bill is to supplement the provisions of the Usurious Loans Act of 1918. The Usurious Loans Act is an all-India legislation, and the introduction of such a Bill should have been in the central legislature and not in a provincial Council. As regards the usurious rates of interest—there is very little difference of opinion—we all condemn it and wish that usury should be a thing of the past in our land.

And we do admit that the system of compound interest causes much hardship to the poor debtors, but in the existing condition of the land it seems to be an unwelcome necessity for the prompt realisation of the creditors' dues. And the money-lenders will never oppose its abolition, provided his dues are regularly realised. The rates for secured and unsecured loans are proposed to be fixed at Rs. 18-12 and Rs. 37-8, respectively. In England the maximum rate of interest is 48 per cent. and above that it is considered as harsh and unconscionable. But there is no fixed rate of interest for unsecured loans there. It is useless to make a contrast between England and India. The credit facilities there are innumerable, and the agriculturists there do not labour under rigid social customs, strict tenancy laws, religious scruples, difficult laws of inheritance, the joint family system and the failure of crops, etc. The money-lender of this land must be bold enough to invest his hard-earned money in the face of these predicaments. It is a matter of great credit to him that he is not unwilling to hazard the risk. It is evident that where the risk is greater, the rate of interest must be higher. For the above reasons we are averse to support a measure which regulates the rate as in the present Bill.

Then, again, the terms "money-lenders" and "agriculturists" have not been defined in the present Bill. This may lead to confusion.

The penal clause is most inequitable and uncalled for. Ample provisions have been made to make the usurer suffer pecuniarily and in addition he is threatened with one year's imprisonment and a fine of Rs. 1,000. Even in the English law from which the present Bill has drawn its inspiration, there is no such provision.

Whatever it may be in spite of the best efforts of our law-makers, it is not improbable that the unscrupulous usurers will find out loopholes in it and make the objects of the Bill abortive.

However, we must offer the mover of the Bill our best congratulations for his laudable efforts to ameliorate the condition of the poor agriculturists. My friend would deserve more credit and would earn the gratitude of another section of his countrymen if we could find any trace of his intention to make provision for the realisation of the money-lenders' just and equitable dues. Had he made any attempt to that end, much of the bitterness existing between the creditor and the debtor would disappear and if successful, he would give a great relief to the creditors and not a little to the borrowers.

Sir, the fate of the creditors and debtors is intermingled. You cannot improve the condition of one to the detriment of the other.

These are some of the salient features which have to be very carefully considered in introducing a legislation of this nature. For this the considered opinion of the public, the Bar Associations, public bodies, the courts concerned and the vast number of credit agencies and borrowers in general should be well ascertained and the Bill should be extensively considered.

Sir, with these words I beg to support the motion of Rai Satyendra Kumar Das Bahadur that the Bill be re-circulated for the purpose of eliciting opinion thereon by the 31st January, 1933.

Mr. PRESIDENT: Although the member has mentioned a different date, I think Maulvi Abul Quasem will realise that it is not necessary for him to move his amendment.

Maulvi ABUL QUASEM: I do not intend to move my motion nor to make a speech, Sir.

The following motion was deemed to be withdrawn:—

Maulvi ABUL QUASEM to move, by way of amendment, that the Bill be re-circulated for the purpose of eliciting opinion thereon before the 21st January, 1933.

Dr. NARESH CHANDRA SEN GUPTA: Sir, while listening to Rai Bahadur Satyendra Kumar Das, I thought that he was killing his own case. He was referring to the highly strained feelings between the borrowers and the debtors in all parts of the country—feelings which, although I do not accept his picture as a true picture altogether, have led to dacoities on an extensive scale being committed by borrowers in the houses of money-lenders. Well, if that is so, it is high time that something were done for the purpose of giving relief to the people who are suffering under the exactions of the money-lenders. If that is so, it is high time to consider in Select Committee what can be done in that direction, by working upon the basis of the Bill moved by Khan

Bahadur Azizul Haque. Rai Bahadur Satyendra Kumar Das and Mr. Poddar have undoubtedly hit upon certain points worthy of the greatest consideration. But they have to be taken into consideration in any comprehensive attempt to give real relief against indebtedness amongst agriculturists in Bengal. But it must be acknowledged that the Khan Bahadur's Bill does not go anywhere near solving the whole of the problem of indebtedness. It is a very vast problem, a problem which can only be solved by a comprehensive programme and to this extent I agree with Mr. Poddar. Some constructive means must be found sooner or later to combat the situation. But should we wait till we have found that constructive means, and not pass some Bill which will, at any rate for the future, prevent such inordinate exactions? I am afraid we cannot hold up our hands in idleness or refuse our support to the proposals of the Khan Bahadur, merely because we think that something more ought to be done, although we know that there is no reasonable prospect of that something being done in the near future. At the same time I must say that I am not satisfied with the Khan Bahadur's Bill; I hope it will be considerably improved in Select Committee: I am not satisfied because it does not go far enough. For one thing, the maximum rate of interest which he has fixed is rather disappointing. It seems to me too high, and I am afraid that when we fix a maximum, there is always a tendency for the minimum to rise up to that extent. Well, if that is so, it would rather tell upon the agriculturists. Then the second thing which I consider to be more important is that the Khan Bahadur's Bill does not provide for giving relief to all the debtors who may have been oppressed by private money-lenders. It is only those who come to the court that can get any relief. From my experience I may say that these people represent only an infinitesimal body of the total number of debtors. The great body of debtors do not come to court; in fact, they have no occasion to come to court. They pay their usurious rate of interest, they deprive themselves of the ordinary amenities of life in order to pay their debts; but what relief are you going to give them? I am afraid any measure which is directed towards giving relief to the cultivators or to the villagers, would be hopelessly ineffectual unless some means were found for providing a village organisation—a village agency—which will be able to make an equitable adjustment of debts as between debtors and creditors. Going to the court is not a very simple business. We, who deal with the courts, know it, and the clients who have to come to the court also know it to their cost.

4 p.m.

Well, it is very very few villagers who can go to the court to take advantage of the facilities which the Khan Bahadur's Bill provides. For these reasons, Sir, I think that this provision is inadequate. It

does not go far enough. It does not go as deep down the society as it ought to. But these are matters which might be considered in the Select Committee. There is nothing to be gained by re-circulation. The Bill has already been circulated. I was really surprised to find Mr. Poddar complaining that we had not received any opinion. I say there is a vast volume of literature consisting mainly of opinion on this subject——

Mr. ANANDA MOHAN PODDAR: Not all the members of the Council are aware of it.

Dr. NARESH CHANDRA SEN GUPTA: Anyway, the Bill has been before the country for some time: there has not been a terrible outcry against it all over the country. At any rate we all know that.

Mr. B. C. CHATTERJEE: But no one knew about the Bill.

Dr. NARESH CHANDRA SEN GUPTA: I shall not perhaps be wrong in saying that those who represent the people at large in this Council have had ample knowledge of the provisions of the Bill, inasmuch as it was introduced in the Council long ago. If the hon'ble members who are opposing the Bill at the present moment thought that the country has not been given a proper opportunity, might I inquire what were they doing all this time? Was it not their duty to instruct the people to voice their opinion against it? The real thing is that the country does not care to oppose it, and I am doubtful whether the Rai Bahadur and Mr. Poddar would have the courage to address a public meeting——

Mr. ANANDA MOHAN PODDAR: We have no necessity at all to do so.

Dr. NARESH CHANDRA SEN GUPTA: I do know that. I do know that there is no public body in Bengal which will support the proposal of Mr. Poddar. But the question has got to be considered, and the Bill has got to be referred to a Select Committee. I take it that the silence of the country is an eloquent evidence of the country's support to the Bill being considered.

The Hon'ble Mr. W. D. R. PRENTICE: Sir, I rise to explain to the Council the attitude of Government in regard to this matter. We propose to support it on the distinct understanding, as stated by the Khan Bahadur when he moved his resolution, that this Bill may be subjected to considerable modifications in the Select Committee, after

consideration of the opinions received as the result of circulation, and of the views of Government on certain of the proposals contained therein. Government fully realise that this is a Bill which will require the most careful examination to enquire that its effect on the economic structure will be beneficial and not harmful and it is only on that understanding that we support the motion for its reference to a Select Committee.

Mr. NARENDRA KUMAR BASU: On a point of information, Sir. I should be glad to know how all that has to be done could be done before the 7th of January.

The Hon'ble Mr. W. D. R. PRENTICE: There is about six weeks' time ahead.

Babu KHETTER MOHAN RAY: Mr. President, Sir, though I entirely sympathise with the object of the Bill, namely, to give relief to the agriculturists, I oppose that the Bill in its present form should not be taken into consideration and passed.

The agriculturists, for whose benefit this Bill has been introduced, will find little relief if the Bill is passed into law. Perhaps my friend, the mover, has hastily drafted the Bill, to allay the clamour of some of his supporters and followers. The Bill is not comprehensive and has not touched many questions which are exercising the mind of the people. In introducing the Bill, my friend, the Khan Bahadur, told the House that the principal object was to suppress the Kabuli nuisance with which several districts, specially in West Bengal and North Bengal, were infested. Measures which the hon'ble mover has proposed for suppression of the evil, are contained in clauses 5, 6 and 7 of the Bill. But these provisions are so comprehensive that they will interfere with the legitimate business of money-lending in this country. I know a good many people of the Dacca district which is the richest district in East Bengal, who are carrying on money-lending and other business in several districts of East Bengal, and the agriculturists and some *mahajans* borrow money from them at cheap rates of interest. It is due to the presence of this class of big capitalists in these districts that the rates of interest have been kept low.

This Bill seeks to do away with the stipulation for compound interest. But the compound interest is a safeguard for speedy and regular realisation of interest. If this safeguard is taken away, money will fly shy of the money-lending business, and the agriculturists who are in need of money for carrying on cultivation will suffer. The joint stock banks which are carrying on business in our country and lend money to the cultivators at a comparatively cheap rate of interest will be hard hit if compound interest is altogether banned. These banks derive

their working capital by taking deposits of money for which they pay compound interest with six-monthly *kists*. Excepting the banks, private money-lenders do not, as a rule, charge compound interest on loans advanced on simple bonds. It is only in the cases of money lent on mortgage bonds that compound interest is stipulated in the bond in order to ensure regular payment of interest. Even in the cases of mortgage-debts, compound interest, as a rule, is not charged if the debt is repaid amicably and without intervention of the courts. There are cases in which the stipulation for compound interest works hardship on the debtors. These are exceptional cases and some means should be devised to afford relief to cases of exceptional hardships. To do away altogether with the compound interest is to strike at the root of the loan-business which is essentially necessary for carrying on cultivation and internal trade of the country.

As regards the provisions for supplying information by the creditor to the debtor, the debtors will find poor consolation from such provisions. In order to obtain informations a debtor must apply to the subdivisional officer and deposit annas eight as fee in the prescribed manner. This means that the debtor who is illiterate will have to engage a mukhtear to do the work. The debtor will get the information supplied by the creditor from the said Magistrate. This procedure will involve troubles and expenses which are not commensurate with the advantages gained by the debtor. Besides, in almost every case, the debtor who lives at a distant village in the interior has to travel four times, at least 20 to 30 miles, in order to get the desired information. These provisions are worse than useless.

Then I come to the question of the rate of interest allowable in law. Clause 15 of the Bill provides that the money-lender will not be able to charge more than 18¾ per cent. in cases of secured loans and 37½ per cent. in cases of unsecured loans. In our parts of the country, before the economic depression had set in, the agriculturists used to obtain loans at average rates varying from 6 per cent. to 18 per cent. But my friend Khan Bahadur said in his introductory speech that Tippera and Mymensingh were the worst offenders in respect of usurious interests. Perhaps my friend the Khan Bahadur and other members of the Banking Inquiry Committee gained this experience from the figures obtained from the law courts. Had they consulted the books of the creditors who generally live at villages, their experience would have been otherwise. In normal times, substantial cultivators without security of their lands and cultivators in general, on security of their holdings, used to get loans as I said before at rates varying from 6 per cent. to 18 per cent. Of course there were exceptional cases in which the debtors had to pay interest at higher rates but below the rates of interest proposed in the Bill. Therefore, I feel constrained to say that the provisions of the Bill will not afford any relief to the

cultivators at least in the district of Tippera. I do not think that the business of money-lending will suffer if the rates of interest are reduced to 12 per cent. in case of secured loans and to 24 per cent. in cases unsecured loans. The agriculturists in the present circumstances of the country will not derive any benefit whatever from the Bill if it is passed into law. Cultivators and traders and *mahajans* in their turn who used to borrow money from bigger capitalists and other people are burdened with a heavy load of debts. They are unable to repay debts even if interest on debts is remitted. In the present economic condition into which the country has been plunged, what is needed most is to concert measures to relieve the economic depression. This can be done either by raising the prices of jute and other agricultural products or by adjustment of debts. If the first means is not feasible, then the latter should be adopted and debts should be adjusted all round from top to bottom. The debts were incurred at times when jute was selling at Rs. 10 to Rs. 12 per maund and rice at Rs. 4½ to Rs. 6 per maund. In the present economic condition of the country if the debtors are compelled to repay the contracted amount of loans, they would be paying double or sometimes treble the amount in terms of commodity prices. These are questions which should engage the attention of the Government and public men of the country. Tinkering with economic problems will not do. Isolated attempts like the present Bill may serve the purpose of electioneering propaganda, but these will not bring any relief to those for whose relief the Bill is professed to be introduced in the Council. I would urge the Government and leaders of our country to put their heads together to devise means with the advice of experts, for the amelioration of the economic condition of the country.

Another objectionable feature of the Bill is to make the so-called usurious rate of interest penal. I can well understand that a creditor who lends money at a usurious rate of interest, should be deprived of such interest, but I cannot understand that the man should be punished because he lends money at rates of interest which is banned as usurious by drastic legislation. This is entirely against all canons of jurisprudence and common sense. Then the problem will arise as to evidence required for proving that a particular person is a habitual usurer. If debtors combine and speak against a man being usurious, the poor man will be convicted if the Bill is passed into law. For all these reasons, I oppose the motion.

4-15 p.m.

Mr. S. C. CHATTERJEE: As one who has paid more interest to creditors than any other member of this House, I claim the natural right to speak on this subject. I only wish my friend had brought in this Bill earlier, for I could have then escaped paying interest to

my creditors. Joking apart, I am afraid this young legislature is showing an increasing predatory instinct. The members were for plucking the *zamindars* the other day, now they are for robbing the money-lenders. But legislation cannot stop the working of natural laws. (A VOICE: Have not usurers been condemned everywhere, even in England?)

Mr. B. C. CHATTERJEE: That is so. Lord Bacon pronounced his classical condemnation on usurers by saying that the usurer's plough alone goes on Sundays. He meant that while all production of wealth is suspended on Sundays, the money-lender's interest accrues on that day too. But in spite of Lord Bacon's condemnation, all the usury legislation in England has remained a dead letter through the centuries. In fact, looking into English economic history we find the centuries littered with legislation of all sorts trying to restrict or stop the operation of inexorable economic laws; and all such legislation registered failures one after another. We learned the great dictum of Sir H. Maine in our student days that the progress of civilisation signified a movement from status to contract. Are you, the legislators of Bengal, going to drag us back into status by abolishing the freedom of contract between lenders and borrowers? A certain quantity of money is wanted every year to finance Bengal's cultivation; those who want it must have it on the terms on which they can get it. It is a question of supply and demand, and if you wish to cut across the law relating thereto by legislation, are you sure you will not end by cutting across cultivation? You cannot force anybody to lend money on your terms; those who will be wanting it will gladly do so by evading your factitious terms. What I ask for is, do not be in too much hurry to legislate; see how legislation of this kind has foundered and failed in other countries, instead of rushing in merely to repeat their mistakes and re-learn at the cost they had had to pay. I should appeal to the Select Committee to be circumspect and slow.

[At 4-20 p.m. the Council adjourned for prayer and it reassembled at 4-30 p.m.]

Babu KISHORI MOHAN CHAUDHURI: I do not think that this is an opportune moment for introducing this Bill or for taking early action on it. I have full sympathy with the object of this Bill and I congratulate the mover for taking early action in this matter. The money-lenders are at present hard hit and if further steps were taken to prevent them from realising their money, they will be hit still harder. When one is in need of money, he is bound to take it on any terms—at an usurious rate of interest, but gradually the rate of interest will adjust itself according to the law of supply and demand. I know of an instance when a man who borrowed Rs. 50 had to execute handnote for

Rs. 100. In jute season cultivators are in great need of money for payment to the day labourers who help the former in cutting the jute and steeping them in water. At that time in our part of the country we often come across cases when an interest of two annas per rupee per month is charged for the money lent and the borrower is obliged to take the money at that rate of interest. Although I think that my friend Khan Bahadur Azizul Haque's Bill is a step in the right direction, I earnestly request him to take the consent of the House to re-circulate the Bill and to consider the situation as to how the money question can best be solved. Agricultural wants must first be solved and if that is not done, this Bill will be of no use to the borrowers.

4-45 p.m.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, I have heard with considerable patience the speeches delivered by the mover of this motion and the gentlemen from the money-lending class, as also by the Government Member. I see the Government is prepared to send this Bill to Select Committee. I am not of course against sending the Bill to Select Committee, but I want to sound a note of warning at this stage of the case. These legislations no doubt are very laudable and very welcome at normal times, when money is plentiful and money can be had just for the asking. When my friend Khan Bahadur Azizul Haque was moving into the interior of this presidency in connection with the Banking Inquiry Committee, he saw everybody flushed with funds and everybody at that time complained that the rate of interest was undoubtedly very high and that it ought to be reduced. If he would now go back to the country on a similar mission, he would probably find that there is practically no money in the country; even at a very high interest you will not get any money. The biggest *zamindars* failing to pay their revenues are begging from door to door to get money at 30 per cent. interest or probably at much higher rate, but still they are not getting it, and lots of properties are being sold now at five times or six times the profit money and sometimes I noticed at practically no price. That is the present condition of the country. When I speak out my mind I want to impress on the Government Bench specially this idea that they ought to be very very cautious in dealing with a difficult subject like this. As regards the rate of interest, that is not the important point now; the real trouble is where to get the money. When I find that everybody is prepared to give the highest rate of interest, never mind how much, to save his *zamindari*, how can you now restrict the rate of interest? I do not say that this will be the order of the day for ever; there must be change in the economic condition of the country and I think that if my friends on the Treasury Bench will care to consider the present economic condition and will try to solve the problem properly, it is in their power, really speaking, to give relief, but unfortunately we

are not finding any activity on their part in this direction. When I say that I am giving this note of warning, I would rather ask them to consider this opinion of mine. I can give you a picture of the present economic condition of my part of the country. I got information that two of my countrymen actually hanged themselves in a neighbouring district of mine for want of food and died. They are not *zamindars*, they are the persons who ought to get money now. I would impress upon the Government Bench to consider whether they would be prepared at this time to advance some money to the Collectors or to the Subdivisional Officers or even to the thana officers to save people from starvation. If they would be prepared to place a good amount of money in the hands of these officers and if the people are informed that money can be had from all these officers when there is real necessity or when they are at the point of starvation, then this question of money-lenders will disappear, but at present if you want to save our compatriots from starvation and from death, I would not touch the money-lenders at all. If the money-lenders would advance money at this stage, I shall be quite happy to get the money. As regards the Bill itself, I am not against it at all provided effect is given to it in normal times, never mind when—may be ten years hence, I do not mind. What I say is this, that in normal times you can restrict these things but not in abnormal times like this. Of course my friends have all discussed the details of the Bill. The Bill wants a lot of amendments and improvements and I know that they will be put in. I need not go into them at all now. What I want to impress upon the minds of the Government Members specially is that the time must be taken into consideration before effect is given to the Bill.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I am surprised at the attitude of Government as expressed in the speech of the Hon'ble Mr. Prentice. Well, in the first instance, he opposed the circulation of the Bill. The Bill has been before the country for a very short time and it is rather a matter of great surprise that a representative of the Government should rise and say that further circulation is unnecessary, presumably on the ground that Government are in possession of all materials which may be necessary to come to a decision in the matter. A decision must be arrived at within the short period of six weeks! If this matter is of such urgent necessity, the Government stand condemned for neglecting the matter so long. It was for them to bring forward a measure like this but apparently Government did not know their minds. The Hon'ble Mr. Prentice has not given us any idea about the attitude of Government in the matter. He says well, let there be a Select Committee and give us license to change the Bill in any way we like. Is it not ridiculous? Well, if the Government had accepted the general provisions of the Bill, we would have been in a position to offer our criticisms in a serious mood. I do not know what inspired the Hon'ble

Mr. Prentice to make this speech; whether his support or opposition is based on political grounds or on the merits of the case. Sir, Khan Bahadur Azizul Haque is to be congratulated on his ingenuity. Government is in want of funds and he has brought forward a Bill which will give Government a lot of money in license fees. Every money-lender has to pay Rs. 10 to get a license from the District Magistrate.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, my friend should be more cognizant of the facts.

Mr. SHANTI SHEKHARESWAR RAY: Well, I have the Bill before me.

Mr. PRESIDENT: You must not go into details.

Mr. SHANTI SHEKHARESWAR RAY: My point was that there was a bait before Government that they will get some money from license fees. Well, personally I see no objection to the Bill going to a Select Committee because I know the House is very sympathetic towards Bills brought forward by non-officials up to a certain stage and there is also a natural dislike to hurt any one's feelings. So my grievance is not against the Bill going to the Select Committee, but going to it without a declared policy from the Government Benches.

5 p.m.

Khan Bahadur Maulvi AZIZUL HAQUE: I am afraid it will not be possible for me within the short time at my disposal to answer all the points which have been raised in favour of re-circulation. I may at once say that some of my friends have been utterly oblivious of the fact that a notification was published in the *Calcutta Gazette* inviting public opinion and criticism from the various associations. Unfortunately some of the associations have not come forward with their opinions though some of them have. But that is no reason why, in view of the fact that this piece of legislation has been supported by my community, it should not go to the Select Committee. My friend Mr. B. C. Chatterjee has not cared to see the newspapers for some time probably on account of professional engagements, but if he had seen side by side the correspondence which appeared in some of the newspapers—the *Liberty*, *Advance*, *Mussalman* and other papers—he must have noticed that many have welcomed the features of the Bill even in their editorials. I am afraid that it is only in this Council House that it is possible for a member to misread facts and also to compare the economic situation of England with that of Bengal. I do not know in what century my friend read the economic history of England, but if he had cared to read the economic history of England thoroughly, he would find that a similar enactment was passed in 1900, remodified again in 1927 and

very recently the English Money-lenders Act had been passed. I am afraid my friend Mr. B. C. Chatterjee is very much annoyed that doles are being given, but if his policy is followed, I am sure it would pave the way to bringing about a state of affairs which he does not want. Some of my friends have waxed eloquent over the present utter starvation of the money-lenders, of the landlords and others. We in this House have full sympathy for the starvation of everybody, but there are other people in whose interests this Bill has been brought forward and it is only to give relief to those classes of people that this Bill has been brought forward in this House. All sorts of political theories have been raised. I have nothing to say as regards the general theory. I will only say this much that it would certainly bring about a millennium. It would be necessary for the legislature not only to pass this measure but also such other measures by which one might not get all his debts realised. That is the human history. It is not possible for the legislature to pass every legislation by which money-lenders may get all the relief they want. The object of my Bill is to show that the present Usurious Loans Act is a failure. If my friends cared to read the opinions of judicial officers taken in the year 1929, they would see that everybody has said that the Act has failed in Bengal. What is the remedy? Everybody is in sympathy. It is quite open to everybody including the money-lenders to give relief. I say this much that my measure merely aims that there should be a definite rate of interest, beyond which the court shall consider it to be extortionate. That is a definite measure. In any case public opinion has been sufficiently known by the Banking Inquiry Committees, both Provincial as well as Central, as also by the volumes of opinion published in various newspapers. I, therefore, oppose the motion for re-circulation

Mr. PRESIDENT: There are various amendments in connection with the personnel of the Select Committee. I do not think I need touch any one of them at this stage. I should like to know if the House wants this Bill to be re-circulated for eliciting public opinion. I would accordingly put that motion first.

The motion that the Bengal Money-lenders Bill, 193 , be re-circulated for the purpose of eliciting opinion thereon by the 31st January, 1933, was then put and a division taken with the following result:—

AYES.

Banerji, Rai Bahadur Keshab Chandra.	Mittra, Babu Saral Chandra.
Basu, Babu Jatindra Nath.	Poddar, Mr. Ananda Mohan.
Chatterjee, Mr. B. C.	Ray, Babu Khetter Mohan.
Chaudhuri, Babu Kishori Mohan.	Roy, Babu Jitendra Nath.
Sen, Rai Bahadur Satyendra Kumar.	Roy, Mr. Saral Kumar.
Shahi, Mr. S.	

NOES.

Ahmed, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Ali, Maulvi Syed Nausher.
Armstrong, Mr. W. L.
Baksh, Maulvi Shaik Rahim.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Basu, Mr. Narendra Kumar.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Choudhury, Maulvi Nural Absar.
Chowdhury, Haji Badi Ahmed.
Chowdhury, Maulvi Abdul Ghani.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Griffiths, Mr. R. N.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hogg, Mr. G. P.
Hoque, Kazi Emdadul.
Hossain, Nawab Musharruf, Khan Bahadur.
Hooper, Mr. G. C.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mukherji, Rai Bahadur Satish Chandra.
Petrie, Mr. E. F.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Quasem, Maulvi Abul.
Raheem, Mr. A.
Rahman, Maulvi Azizur.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray Chowdhury, Mr. K. C.
Reid, Mr. R. N.
Rout, Babu Hemeni.
Roy, Mr. Saileswar Singh.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Sinharoy, Maulvi Muhammad.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 11 and the Noes 63, the motion was lost.

5-15 p.m.

Mr. PRESIDENT: Before I take up the amendments relating to the personnel of the Select Committee, I should like the House to decide whether the Bill should be referred to a Select Committee at all.

The question is that the Bengal Money-lenders Bill, 193 , be referred to a Select Committee.

The motion was put and agreed to

Mr. P. BANERJI: I beg to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Mr. Shanti Shekhareswar Ray, and

Mr. P. Banerji.

The motion was put and agreed to.

Khan Bahadur Maulvi AZIZUL HAQUE: Before the other motions are moved, I should like, with your permission, Sir, to place an amendment containing certain names who are representatives of some influential parties.

Mr. PRESIDENT: Are those names mentioned in any of the amendments?

Khan Bahadur Maulvi AZIZUL HAQUE: Yes, Sir. My new amendment contains the following names:—

Maulvi Tamizuddin Khan,

Mr. J. N. Basu,

Mr. H. S. Suhrawardy,

Rai Satyendra Kumar Das Bahadur, and others.

Mr. PRESIDENT: Do I understand that if these names are included, the amendments of which notice has been given will not be moved?

Khan Bahadur Maulvi AZIZUL HAQUE: I do not know, Sir, and it is with that view, that is, to prevent the moving of the amendments, that I beg your permission to move my new amendment. I will move my amendment only if these amendments are withdrawn or not moved

Mr. PRESIDENT: I think I had better go on with the amendments on the paper. You might move your amendment after they have been disposed of.

The following motion was called but not moved:—

Haji BADI AHMED CHOWDHURY to move that after the name of Rai Bahadur Susil Kumar Dhugali the following names be inserted, namely:—

Maulvi Tamizuddin Khan,

Maulvi Abul Kasem,

Rai Bahadur Kamini Kumar Das,

Maulvi Nural Absar Choudhury, and

Haji Badi Ahmed Chowdhury.

Babu SUK LAL NAG: I beg to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Munindra Deb Rai Mahasai, and

Babu Suk Lal Nag.

The motion was put and lost.

The following motions were called but not moved:—

Rai Bahadur SATYENDRA KUMAR DAS to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Mr. Ananda Mohan Poddar,

Babu Hem Chandra Roy Choudhuri, and

Rai Bahadur Satyendra Kumar Das.

Rai Sahib SARAT CHANDRA BAL to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Rai Sahib Rebati Mohan Sarker,

Babu Amulyadhan Ray, and

Rai Sahib Sarat Chandra Bal.

Maulvi ABDUL HAKIM to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Mr. A. K. Fazl-ul Huq, and

Maulvi Abdul Hakim.

Mr. SARAT KUMAR ROY: I beg to move that after the name of Rai Bahadur Susil Kumar Gangali the following name be inserted, namely:—

Rai Bahadur Satyendra Kumar Das.

I have excluded my own name, Sir.

The motion was put and agreed to.

Babu KHETTER MOHAN RAY: I beg to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Mr. Ananda Mohan Poddar,

Babu Satish Chandra Ray Chowdhury, and

Babu Khetter Mohan Ray.

The motion was put and lost.

Mr. PRESIDENT: I think the name of Mr. J. N. Basu who has been proposed by the member in charge of the Bill, and of Rai Bahadur Satyendra Kumar Das, whose name has already been included by a previous motion, may be omitted from the next motion.

Mr. ANANDA MOHAN PODDAR: All right, Sir. I accordingly beg to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Babu Khetter Mohan Ray,

Rai Bahadur Keshab Chandra Banerji,

Dr. Amulya Ratan Ghose, and

Mr. Ananda Mohan Poddar.

The motion was put and lost.

(At 5-30 p.m. the Council was adjourned for prayer and it reassembled at 5-40 p.m.)

The following motions were not moved:—

Kazi EMDADUL HOQUE to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Maulvi Hassan Ali, and

Kazi Emdadul Hoque.

Babu HEM CHANDRA ROY CHOUDHURI to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Mr. Ananda Mohan Poddar,

Rai Bahadur Satyendra Kumar Das,

Rai Bahadur Kamini Kumar Das, and

Babu Hem Chandra Roy Choudhuri.

Rai Bahadur KAMINI KUMAR DAS to move that after the name of Rai Bahadur Susil Kumar Gangali the following names be inserted, namely:—

Babu Satya Kinkar Sahana,

Babu Khetter Mohan Ray,

Rai Bahadur Dr. Haridhan Dutt,

Rai Bahadur Kamini Kumar Das,

Dr. Amulya Ratan Ghose,

Rai Bahadur Satyendra Kumar Das, and

Haji Badi Ahmed Chowdhury.

Khan Bahadur Maulvi AZIZUL HAQUE: With your permission, Sir, I beg to move that the following further names be added to the Select Committee as moved by me:—

Babu Khetter Mohan Ray,

Mr. H. S. Suhrawardy,

Kazi Emdadul Hoque,

Mr. J. N. Basu,

Mr. Ananda Mohan Poddar,

Rai Sahib Sarat Chandra Bal,

Mr. A. F. M. Abdur-Rahman, and

Maulvi Tamizuddin Khan.

Mr. PRESIDENT: The question is that the Bengal Money-lenders Bill, 193 , be referred to a Select Committee consisting of—

(*1*) The Hon'ble Member in charge of the Judicial Department,

(*2*) Mr. A. G. R. Henderson,

(*3*) Mr. Syamaprosad Mookerjee,

(*4*) Khan Bahadur Maulvi Alimuzzaman Chaudhuri,

(*5*) Mr. W. C. Wordsworth,

(*6*) Dr. Naresh Chandra Sen Gupta,

(*7*) Maulvi Abdul Hamid Shah,

(*8*) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(*9*) Mr. Narendra Kumar Basu,

(*10*) Khan Bahadur Maulvi Muhammad Abdul Momin,

(*11*) Rai Bahadur Susil Kumar Gangali,

(*12*) Babu Khetter Mohan Ray,

(*13*) Mr. H. S. Suhrawardy,

(*14*) Kazi Emdadul Hoque,

(*15*) Mr. J. N. Basu,

(*16*) Mr. Ananda Mohan Poddar,

(*17*) Rai Sahib Sarat Chandra Bal,

(*18*) Mr. A. F. M. Abdur-Rahman,

(*19*) Mr. Shanti Shekhareswar Ray,

(*20*) Mr. P. Banerji,

(*21*) Rai Bahadur Satyendra Kumar Das,

(*22*) Maulvi Tamizuddin Khan, and

(*23*) Khan Bahadur Maulvi Azizul Haque,

with instruction to submit their report by the 7th January next and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The motion was put and agreed to.

The Bengal Mela Sanitation Bill, 1932.

5-45 p.m.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that the Bengal Mela Sanitation Bill, 1932, be referred to a Select Committee. At this stage, I shall not discuss the question of the personnel of the committee. I shall give the names later on.

This Bill has been circulated for eliciting public opinion, and I find that except a certain gentleman, a very large number of bodies has practically supported my Bill. I must make it clear that the Bengal Local Self-Government (Amendment) Bill is on the legislative anvil, and if the provisions of this Bill are incorporated in that Bill, I shall certainly delete those provisions from this Bill. With these words, I beg to move its reference to a Select Committee.

I also move, Sir, that the date for the submission of the report be extended up to 31st January, 1933.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I at this stage state the Government point of view? What I want to point out is that Government are not opposed to the motion for referring the Bill to Select Committee, but they agree to do so on the strict understanding that if the Select Committee find that in view of clause 58 of the Local Self-Government Bill, this Bill is quite superfluous, or if the Select Committee change the most important provisions of the Bill, the Khan Bahadur should be prepared to withdraw it. Government are agreeable to refer it to Select Committee without committing themselves to the principles of the Bill or without any undertaking to support it when the Select Committee report on it. On this understanding, Sir, I am prepared to support the motion.

Mr. PRESIDENT: How are you going to have this undertaking?

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Can the Khan Bahadur give any guarantee as regards the matter which concerns the whole House and in which the whole House is interested? How can the Khan Bahadur press his motion for reference to a Select Committee unless the principles of his Bill are first accepted by the House?

Mr. PRESIDENT: This is an important point indeed. But it must be remembered that the Khan Bahadur has a large say in this matter inasmuch as he can withdraw his Bill at any stage.

Dr. NARESH CHANDRA SEN GUPTA: On a point of order, Sir. How can the Government give their assent to a motion for reference to a Select Committee without accepting the principles of the Bill?

Mr. PRESIDENT: If the House sends the Bill to the Select Committee, it will surely stand committed to the principles of the Bill. But the Hon'ble Minister may have good reasons for relying on the member in charge of the Bill if he gives such an undertaking as the Hon'ble Minister wants.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may I offer an explanation? I think I should frankly express my point of view. My first point is the eradication of prostitution from *melas*. There is another point, and that is sanitation. If the second point is covered by the Local Self-Government Bill, I would not press it.

Mr. PRESIDENT: I think it is not possible to carry on protracted negotiations for a compromise on the floor of the House, and the Hon'ble Minister must make up his mind either to support or oppose the motion before the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: If the Khan Bahadur clearly understands what I mean, I have no objection.

Khan Bahadur Maulvi AZIZUL HAQUE: I fully understand the Hon'ble Minister's point of view.

Mr. SARAT KUMAR ROY: Sir, I rise to oppose the Bill. According to the member-in-charge, the effect of the Bill appears to be this, that although *melas* and fairs fetch good income to their proprietors, yet the latter do not maintain proper sanitary arrangements there, and, as a result, epidemic diseases break out and cause ravages even in the neighbourhood.

The remedy suggested by the Bill is to vest health officers, appointed by the district boards and municipalities, with enlarged powers of administrative control over the holding of these *melas* and fairs.

The questions that arise are—

(*a*) Whether enlarged powers of the health officers will serve the real purpose.

(*b*) Whether it is expedient to vest such enlarged powers in these officers without constituting a competent authority to control and check the proper exercise of their powers.

(*c*) Whether the provision in the Bill for appeal against the decision of the health officer is sufficient to safeguard the interests of private individuals and will suffice to prevent undue interference with the exercise of their rights and interests in their immovable properties.

(*d*) Whether the vesting of such wide powers in these health officers will injuriously affect public interests.

(*e*) Whether it is at all necessary to enact a new legislation when there are already provisions for the purpose in the existing legislation and when in the Bengal Local Self-Government (Amendment) Bill, which is now before the House, provisions have been made for the purpose.

(*f*) Whether any new burden of expenditure ought to be imposed upon the owners of the *melas* whose incomes in many cases are not as much as to enable them to bear the expenses without hardship.

Now, Sir, I beg to submit that many of these *melas* are long-established affairs, and in many cases they are connected with religious ceremonies. The local people look forward to them for an opportunity, for not only satisfying their traditional and religious inclinations, but they also remain on the look-out for them for buying and selling various commodities, household necessaries in bulk, agricultural implements, seeds, cattle, etc., for which they hardly get any opportunity elsewhere. It is not always possible for the poor villagers to go to distant towns and bazars for buying their necessaries, as such a course is highly expensive and troublesome to them.

It, therefore, cannot be denied that in the holding of these *melas*, the poor villagers are vastly interested. And I should say that certainly they and the vendors are more interested in them than those who patronize the holding of the *melas*. It is our duty to see that nothing happens to jeopardize these public interests.

In this connection, I consider it necessary to discuss the reason for which district boards were vested with the powers of control and supervision over these *melas* and fairs, etc. The local authorities were given the power to inaugurate *melas* and exhibitions in rural areas of the district, because it was considered their duty to encourage such *melas* and exhibitions for the agricultural and economic development of the country. These *melas* have, therefore, an educative value, and possess economic importance as well of a high order. There, one can exhibit the best seeds for agriculture, the best cattle, scientifically improved agricultural

machineries, and other necessaries before the mass. District boards are actually holding lantern lectures and other demonstrations there to educate the public. This jurisdiction which was conferred upon the boards was, therefore, intended to be exercised rather for encouraging the holding of these *melas* than for hampering or unduly interfering with private enterprise and patronage in favour of them.

I consider that it is dangerous to empower these local health officers with more extensive powers than what they now enjoy. Several public servants and bodies have also expressed the same opinion. These health officers are, by education and training, only medical graduates. They possess little administrative training. Their proper function in office is to suggest the best means for preventing the spread of disease and for looking to sanitary arrangements. Possessing as they do such scanty administrative experience and capacity to estimate what loss to private property means, I think that they should not be authorised to decide questions as to whether an individual or a body of them should be permitted to hold a *mela*—an exercise of right intimately connected with the proper enjoyment of his or their interests therein.

Mr. PRESIDENT: I am afraid you are going too much into the details: you should stick to the principles underlying this Bill.

Mr. SARAT KUMAR ROY: Sir, I shall finish my speech presently.

Moreover, the health officer will often have to depend upon the reports of his subordinates, such as sanitary inspectors, and their decisions cannot always be regarded as sound.

Hence, I am strongly opposed to this Bill if its object be—and, as a matter of fact, it actually appears to be—to vest the health officers with more extensive administrative control over these public institutions than at present.

Sir, I must also draw your attention to the fact that the income derived from these *melas* is not so large as to enable the owners thereof to incur heavy expenses, and any drastic measures to compel them to incur heavy additional expenses will eventually have the effect of suppressing many of them, there being no way to make additional income to meet such additional expenses.

Sir, I am in full sympathy with the earnestness of the mover of the Bill to eradicate evils from these *melas*. But, I think, that the local authorities are already vested with sufficient powers for safeguarding public interests. The Bengal Local Self-Government (Amendment) Bill now before the House is also going to deal with this matter adequately.

I, therefore, consider it redundant and undesirable to do the same thing over again by a separate legislation here.

With these words, I oppose this Bill.

Mr. SHANTI SHEKHARESWAR RAY: Sir, it appears that we are in for a new order of things. Up till now, Government, or rather the Hon'ble Minister in charge of the Local Self-Government Department, has not accepted the principle underlying this Bill, but at the same time he has no objection to the measure going to a Select Committee.

6 p.m.

But if he had considered the matter seriously, I think he would have realised that there was no case for this Bill going into the Select Committee at all. As a matter of fact, the Local Self-Government Bill will be shortly coming up before this Council and in that connection we shall have an opportunity of discussing and deciding upon the most important points raised in this Bill. By the time the Select Committee could possibly submit a report on this Bill, these details would be decided one way or the other. The two important points which have been raised in this Bill are the question about the control over the *melas* by the health officers and the control in connection with the location of prostitute quarters in *melas*. Both these points were discussed at length in connection with the Local Self-Government Bill in the Select Committee and I believe they will be discussed and fought out on the floor of this House when that Bill comes before the House. I do not see what purpose will be served by referring the present Bill to a Select Committee. There is another aspect of the question which Khan Bahadur Azizul Haque has completely ignored and that aspect is—I refer to it with great hesitation—the point raised by the opinion expressed by Bangiya Sahitya Parisad. If I remember aright, they expressed the opinion that the Bill, if passed into law, would encroach on the privilege of Hindus in holding *melas* on religious occasions. My friend Khan Bahadur Abdul Momin asks: "Do the Hindus alone send prostitutes?" I ask him not to side-track the issue by raising the question whether Hindus send prostitutes, but it is a question whether the health officer or any man should have any control over the *melas* held in connection with religious observations. Here in this Bill you say unless the health officer gives license no *melas* are to be held. Am I to understand that I am to give up the celebration of deities in case the health officer of Rajshahi thinks that adequate arrangements have not been made so far as sanitation is concerned? The proper course would be not to interfere with *melas* which are held in connection with some religious festivals. You cannot possibly control it. The country would not tolerate such interference on the part of anybody and there would be serious riots if an effort is made to do that. But, Sir, I do not want to go into the details because the whole question will come up when the Local Self-Government Bill will come before the House and I am only pointing out that it is quite unnecessary to refer these points once again to the Select Committee in connection with this Bill.

The following motion was deemed to be withdrawn :-

Mr. SHANTI SHEKHARESWAR RAY to move that the Bill be re-circulated for the purpose of eliciting public opinion thereon by the 28th February, 1933.

Rai Bahadur Dr. HARIDHAN DUTT: I rise to give my support to the Bill. I whole-heartedly support the reference of this Bill to the Select Committee. I have been led to do so or take my stand at this moment after hearing the remarks just made by Mr. S. K. Roy and my esteemed friend the Kumar Bahadur. I have been surprised to hear that these *melas* are supported in the way in which Mr. Ray wants to do. Are the *melas* to be supported even at the risk of health? My friends brought the bugbear of religion and my friend the Kumar Bahadur spoke of *Rathjatra* being suppressed. I do not think he was serious, as there is no provision in this Bill of Khan Bahadur Maulvi Azizul Haque which might be construed to suggest that the *Rathjatra* or its connected festivals would be suppressed. If there is any such provision, I must have misunderstood that. I understand the object of the Bill is to regulate the *melas*. What objection can there be against the regulation of *melas* from the sanitary point of view? My friend Mr. Ray is particularly jealous of giving powers to the district health officers; he calls them men with medical education but without any administrative capacity. Does he know that the health officers are recruited from members of the medical profession with administrative capacity and experience? These men with medical qualification are given special training in administrative work. Sir Nilratan Sircar is not a health officer but Dr. Majumdar is the health officer of Calcutta. Both of them might have been given the preliminary education from the same source, but my friend ignores what subsequently takes place. Why should he be jealous and object to give powers to good qualified men? It cannot be denied that the district health officers in Bengal are doing valuable service. What is the service that you expect them to do in connection with *melas* but arrangements for proper methods of sanitation in them? What is the necessity of having the Public Health Department with a large number of men distributed all over Bengal with a view to introducing sanitary reforms, if they are not given opportunities to carry out their work? Dr. Bentley introduced the health officer's system and I hear eulogies about their work. What work would be left to these men if this important work is taken out of their hands? I do not think that the apprehension of the previous speakers is at all correct. We are told that the *zamindars* of these *melas* would be hard hit economically. On the other hand, during the last few years a good many *melas* have improved immensely. People are attracted to these *melas* from long *distances* and the result is that where formerly 500 people assembled, now 5,000 go. In Bengal there are some *melas* where even 50,000 people assemble.

This is now possible because there have been buses and petrol motors which bring people from great distances very easily to these *melas*. My friend also said that this Bill will jeopardise public interest. May I ask him what is the interpretation of his words "public interest"? (A VOICE: Interest of Government.) I understand it is to the interest of the people that the *melas* should be regulated. If that is not public interest, I do not understand what "public interest" really means.

I, however, believe that this Bill has some defects, but they are easily remediable. Why not give an opportunity to the members of the Select Committee to see if this Bill can be so improved as to meet all the different points of view? Personally I do not think there is any reasonable objection to let the Bill go to the Select Committee. I, therefore, request my friends to give their support to the principle of this Bill.

Mr. NARENDRA KUMAR BASU: Rai Bahadur Dr. Haridhan Dutt has supported this motion as a medical man. As a lawyer I must oppose it and my short ground for opposing it is this: my friend the member in charge of this Bill is a lawyer himself and in fact he is a public prosecutor. But I am very sorry to have to bring it to the notice of this House that what he intends to do by this Bill is something like poaching and he has been poaching upon the Local Self-Government Department in their amendment Bill and he has been poaching upon the Suppression of Immoral Traffic Bill of Mr. J. N. Basu. If my friend intends it to exercise a dilatory function and tries to put it down outside this Council in his capacity as a public prosecutor, I for one would rush to its rescue and oppose this Bill.

Babu KHETTER MOHAN RAY: I regret to say that I am opposed to the motion of referring the Bill to a Select Committee. The definition of the *mela* attempted to be given in this Bill is very wide and comprehensive. To my mind it includes any sort of congregation whether it is held for sale and purchase of goods or for any religious festivals on the occasion of sacred bathing, *austoprahar sankirthan*, Bengali New Year's Day, etc. It will unwarrantedly and needlessly interfere with the religious festivals of the Hindus. Such *melas* are sometimes held in private houses or in the open *maidan*. Scarcely a month passes when small *melas* are not held in various villages in Bengal. Most of these *melas* are of a religious character. Proprietors of the lands in which these *melas* are being held from time immemorial do not receive any rents or profits from such *melas*. They are held for a day or two commencing from the midday and terminating in the evening. Only temporary stalls of a flimsy character are erected and taken away as soon as the *mela* closes. The definition of the *mela* in the Bill is wide enough

to include all such *melas* described above. It is not possible and practicable that the ignorant folk should travel a distance of 30 or 40 miles, in some cases 60 miles, from their villages and obtain the permission of holding such *melas* from the health officers whose headquarters are at the town in which the offices of the district board are located. I think this Bill, if passed into law, will put the people who are accustomed to holding such *melas* from generation to generation, to incalculable trouble and mischief. Besides, there are other cogent reasons for opposing the Bill. The Bengal Self-Government Amendment Bill is going to be shortly considered in which similar provisions will come up before the Council. The Bengal Municipal Act has been recently passed. In view of these facts, I am of opinion that the Bill should not be referred to a Select Committee.

6-15 p.m.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to oppose this motion about circulation.

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. There is no motion for circulation.

Khan Bahadur Maulvi AZIZUL HAQUE: In that case I would reply to those gentlemen who opposed my motion for referring the Bill to a Select Committee. At the outset I would invite attention to the fact that the Legislative Council have published four volumes of opinion, and if the members will care to study them, they will find that there is a consensus of opinion in favour of the Bill. Sir, I am conscious of the many defects which exist in the Bill as it stands, but whatever defects there are, it will be possible to remove them in the Select Committee. I would not refer to all the opinions which have been received, but I would refer briefly to some of them. I would first of all refer to the opinion of Raja Monilol Singh Roy Bahadur, Chairman of the Burdwan District Board. That board have given full support to the Bill. Then I would refer to the opinion of the Incorporated Law Society who have also supported the Bill. I wish my friend, Mr. Narendra Kumar Basu, had been here now. Then I would draw his attention to the fact that a certain tea planters' association in Jalpaiguri have stated that in present circumstances prostitution has been a great menace to public morality and has been largely responsible for spreading venereal diseases in the *mufassal*. I may also quote the opinion of the Bengal Mahajan Sabha, who have given full support to the Bill. Of course everybody has pointed out some defect or other in the Bill, but they can all be remedied in the Select Committee. Then, Sir, the Buddhist Association of Chittagong have given their support to the Bill and the Bill has received full support from numerous municipalities and district boards. The only adverse opinion

which I am tempted to quote is from the district of Rajshahi, from which both Mr. Sarat Kumar Roy and Mr. Shanti Shekhareswar Ray come. The Civil Surgeon of Rajshahi says: "It is necessary to stop prostitution with a view to stop venereal diseases. But no *mela* is likely to thrive without such an element and proprietors are likely to resist it and will suffer materially as *melas* may not sit at all." Am I to understand that the Civil Surgeon has got inspiration from certain members belonging to that district? I shall not pause very much to reply to the other points, but I will refer to the opinion of an impartial society whose opinion should carry great weight, I mean the Social Study Society of Calcutta, which has given its full support to the Bill. I submit, Sir, the House should not agree to anything by which the reference of the Bill to a Select Committee may be retarded. If there is anything in the Bill which goes counter to the provisions of the Local Self-Government Act, it can easily be remedied. That is a matter for detailed examination. All that I can say is that all these matters will be examined very carefully in the Select Committee.

The motion that the Bill be referred to a Select Committee was then put and agreed to.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that the Bill be referred to a Select Committee consisting of—

(*1*) The Hon'ble Minister in charge of the Local Self-Government Department,

(*2*) Mr. H. P. V. Townend,

(*3*) Maulvi Abdul Ghani Chowdhury,

(*4*) Mr. A. F. M. Abdur-Rahman,

(*5*) Maulvi Tamizuddin Khan,

(*6*) Khan Bahadur Maulvi Muazzam Ali Khan,

(*7*) Rai Bahadur Keshab Chandra Banerji,

(*8*) Rai Bahadur Dr. Haridhan Dutt,

(*9*) Mr. H. Birkmyre, and

(*10*) the mover,

with instruction to submit their report by the 31st January next and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Mr. P. BANERJI: Sir, I beg to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Mr. Mukunda Behary Mullick, and

Mr. P. Banerji.

The motion was put and lost.

The following motions were called but not moved:—

Haji BADI AHMED CHOWDHURY to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Khan Bahadur Muhammad Abdul Momin,

Khan Bahadur Maulvi Azizul Haque, and

Haji Badi Ahmed Chowdhury.

Babu SUK LAL NAG to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Rai Sahib Akshoy Kumar Sen, and

Babu Suk Lal Nag.

Maulvi ABUL QUASEM: I beg to move that after the name of Mr. H. Birkmyre, the following name be inserted, namely:—

Babu Suk Lal Nag.

In moving this amendment I should like to point out that there is no one in the Select Committee from the district of Khulna or who has any knowledge of the district. The addition of Babu Suk Lal Nag will give strength to the committee and I hope the member in charge of the Bill will accept my amendment.

The motion was put and lost.

The following motion was called but not moved:—

Babu HEM CHANDRA ROY CHOUDHURI to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

Babu Khetter Mohan Ray,

Rai Bahadur Kamini Kumar Das, and

Babu Hem Chandra Roy Choudhuri.

Mr. SARAT KUMAR ROY: I beg to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Maharaja Sris Chandra Nandy, of Kasimbazar,

Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

Babu Satish Chandra Ray Chowdhury,

Babu Khetter Mohan Ray, and

Mr. Sarat Kumar Roy, and

for the word "four" relating to number of members to constitute a quorum the word "five" be substituted.

The motion was put and lost.

The following motions were called but not moved:—

Rai Bahadur KAMINI KUMAR DAS to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

Rai Bahadur Kamini Kumar Das,

Mr. R. Maiti, and

Babu Hem Chandra Roy Choudhuri.

Kazi EMDADUL HOQUE to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Maulvi Hassan Ali, and

Kazi Emdadul Hoque.

Babu KHETTER MOHAN RAY to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Babu Satish Chandra Ray Chowdhury,

Rai Bahadur Kamini Kumar Das, and

Babu Khetter Mohan Ray.

Mr. ANANDA MOHAN PODDAR: I beg to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Munindra Deb Rai Mahasai, and

Dr. Amulya Ratan Ghose.

The motion was put and lost.

The following motion was called but not moved:—

Rai Sahib SARAT CHANDRA BAL to move that after the name of Mr. H. Birkmyre the following names be inserted, namely:—

Khan Bahadur Maulvi Alimuzzaman Chaudhuri,

Mr. Ananda Mohan Poddar, and

Rai Sahib Sarat Chandra Bal.

Khan Bahadur Maulvi AZIZUL HAQUE: With your permission, Sir, I beg to move that the following further names be added to the Select Committee as moved by me:—

Rai Sahib Rebati Mohan Sarker,

Maulvi Hassan Ali,

Mr. A. Raheem, C.I.E., and

Maulvi Syed Nausher Ali.

Mr. PRESIDENT: The question is that the Bengal Mela Sanitation Bill, 1932, be referred to a Select Committee consisting of—

(*1*) The Hon'ble Minister in charge of the Local Self-Government Department,

(*2*) Mr. H. P. V. Townend,

(*3*) Maulvi Abdul Ghani Chowdhury,

(*4*) Mr. A. F. M. Abdur-Rahman,

(*5*) Maulvi Tamizuddin Khan,

(*6*) Khan Bahadur Maulvi Muazzam Ali Khan,

(*7*) Rai Keshab Chandra Banerji Bahadur,

(*8*) Rai Dr. Haridhan Dutt Bahadur,

(*9*) Mr. H. Birkmyre,

(*10*) Rai Sahib Rebati Mohan Sarker,

(*11*) Mr. A. Raheem, C.I.E.,

(*12*) Maulvi Hassan Ali,

(*13*) Maulvi Syed Nausher Ali, and

(*14*) Khan Bahadur Maulvi Azizul Haque,

with instruction to submit their report by the 31st January next and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The motion was put and agreed to.

The Bengal Tenants' Protection from Usury Bill, 1932.

6-30 p.m.

Maulvi SYED MAJID BAKSH: I beg to move for leave to introduce the Bengal Tenants' Protection from Usury Bill, 1932. There is one difficulty and I should like to explain to the House——

Mr. PRESIDENT: Maulvi Sahib, before I allow you to make a speech, I think I should put the motion for leave to introduce the Bill before the House first.

The motion was put and a division was called.

Mr. PRESIDENT: I feel that Maulvi Syed Majid Baksh should be given an opportunity to make a statement at this stage, as he was not able to make one before the motion was put. The opposition did not follow the regular procedure in opposing the introduction of the Bill. The correct procedure is for one to rise and say "I object" as soon as the motion for introduction is formally moved; but, I think, it is not too late. I hope the House will agree with me in thinking that Maulvi Syed Majid Baksh should now be given an opportunity to make a brief statement in justification of his motion.

Maulvi SYED MAJID BAKSH: Thank you, Sir. I would like to enlighten the House on certain points. In the first place, my Bill is not, as is thought to be, overlapping the Bill that has just been referred to the Select Committee. That Bill aims at lowering a general rate of interest. My Bill is a simple measure for the benefit of the agriculturists who borrow money for the sake of using it in purchasing cattle or seed. It is for the benefit of the agriculturists alone and, therefore, I have reduced the rate of interest to 20 per cent. I have also introduced an elaborate measure by which both the creditor and the debtor will be given an opportunity of proving their claim, making an objection and getting relief before going to the court for determining the rate of interest. It lays down a short and summary procedure. It does not apply to municipal areas. It does not provide for registration or compound interest. It deals with many other things which affect the agriculturists only because agricultural prosperity is necessary for the *zamindars* as well as for the traders. The money-lender may begin with a small rate of interest, but by lending the money again and again he can get a good return for his money, whereas by lending it at a high rate of interest he has got to go to the court for the realisation of money and is put to obvious difficulties. It is only with the object of providing protection to the agriculturists that I have introduced this Bill.

The motion that leave be given to introduce the Bengal Tenants' Protection from Usury Bill, 1932, was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Ali, Maulvi Syed Nawsher.
Baksh, Maulvi Shaik Rahim.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Rai Sahib Panchanan.
Chaudhuri, Khan Bahadur Maulvi Azizuzzaman.
Choudhury, Haji Badi Ahmed.
Choudhury, Maulvi Abdul Ghani.
Rahim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hossain, Nawab Musharrut, Khan Bahadur.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Quasem, Maulvi Abul.
Raheem, Mr. A.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Sarker, Rai Sahib Rohini Mohan.
Shah, Maulvi Abdul Hamid.
Sulaiman, Maulvi Muhammad.
Suhrawardy, Mr. H. S.

NOES.

Banerji, Rai Bahadur Keshab Chandra.	Mittra, Babu Sarat Chandra.
Basu, Babu Jatindra Nath.	Nag, Babu Suh Lal.
Birtwhyte, Mr. H.	Peddar, Mr. Ananda Mohan.
Bose, Mr. S. M.	Ray, Babu Khetter Mohan.
Burn, Mr. M. H.	Ray, Maharaja Jagadish Nath, of Dinajpur.
Cooper, Mr. C. G.	Roy, Mr. Saileswar Singh.
Das, Rai Bahadur Kamini Kumar.	Roy, Mr. Sarat Kumar.
Das, Rai Bahadur Satyendra Kumar.	Roy Choudhuri, Babu Hem Chandra.
Forrester, Mr. J. Campbell.	Sahana, Babu Satya Kinkar.
Guha, Mr. P. N.	

The Ayes being 24 and the Noes 19, the motion was carried.

The Secretary then read the short title of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that the Bengal Tenants' Protection from Usury Bill, 1932, be referred to a Select Committee consisting of—

(*1*) The Hon'ble Member in charge of the Judicial Department,

(*2*) Mr. W. H. Thompson,

(*3*) Khan Bahadur Maulvi Muhammad Abdul Momin

(*4*) Maulvi Tamizuddin Khan,

(*5*) Khan Bahadur Maulvi Ahmuzzaman Chaudhuri,

(*6*) Maulvi Nural Absar Choudhury,

(*7*) Maulvi Azizur Rahman,

(*8*) Dr. Naresh Chandra Sen Gupta,

(*9*) Rai Sahib Panchanan Barma,

(*10*) Babu Amulyadhan Ray,

(*11*) Munindra Deb Rai Mahasai, and

(*12*) the mover,

with instruction to submit their report in the course of this session and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

There are some whose signatures I have not been able to get. With your permission, Sir, I propose the name of Maulvi Azizur Rahman, who has no objection, in place of Mr. Jitendralal Bannerjee. I know, Sir, that the view in some responsible quarters is that this Bill is practically an identical one to the other Bill that has just been referred to the Select Committee. I submit, Sir, that if you closely examine the provisions of the Bill, you will find that it is not so. As a matter of fact the two Bills are quite apart. My Bill deals only with the agriculturists, while the other one will apply to general contractual debts.

6-45 p.m.

Of course it is the dire poverty of the tenants which has induced me to introduce this measure. The rate of 37½ per cent. is very excessive for a tenant. A person who borrows for business purposes can afford to pay a heavy rate of interest, but a person who wants money to maintain himself in slack season and to purchase seed grains and cattle for agricultural purposes cannot afford to pay a high rate of interest. Indeed, calculation shows that interest at the rate of two pice in the rupee comes to 37½ per cent. If monthly rate is allowed and if compound interest is calculated at 37½ per cent., even one rupee may rise up to one lakh of rupees: so the rate of 37½ per cent. is very heavy.

Before the passing of the Usurious Loans Act, the courts were in the habit of considering 37½ per cent. excessive. We ourselves filed objections in suits for money in which the rates of interest claimed were not more than 37½ per cent. and the court agreed with us and reduced the rate of interest to 20 per cent. After the passing of the Usurious Loans Act, however, in many cases, as my friend Khan Bahadur Maulvi Asizul Haque pointed out in moving his Bill, some of the courts (perhaps they themselves were money-lenders) decreed interest not at the rate of 37½ but sometimes even at the rate of 75 per cent. So I think, Sir, this discretionary power has been misused.

Sir, I plead for the tenants: they require special treatment: most of the tenants are illiterate and the money that is lent to them is realised from them many times over without the cognisance of the court; but no provision has been made in the Bill of the Khan Bahadur to remedy this. I have made provision in my Bill that if a money-lender in some way or other gets more than the amount due to him, he should be brought under the law. So if the two Bills go to the Select Committee and are ready to be taken up in the next session, we will be able to agree between ourselves what form the Bill should take at the final stage. What I want is special protection for the tenants as against money-lenders. If those who are moving for circulation or such other dilatory motions can show that by accepting a motion for circulation the Bill could be taken up in the next session, I am ready to accept the motion. But I am afraid there will be no other session and under the Council rules after a Bill is circulated, it must be referred to a Select Committee and it is obvious there will be hardly any time for such reference if it is to be taken up during the next session, as the Council will come to an end early next year. In that case I shall have no opportunity of submitting this Bill for the consideration of the House. I therefore submit that the Bill be referred to a Select Committee now.

Mr. ANANDA MOHAN PODDAR: Sir, I beg to move, by way of amendment, that this Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1933.

Sir, the proposed Bill is an attempt to effect important changes in the existing law of the land and it is proper that the interests affected should have an opportunity of expressing their considered opinion on it. Besides, this is quite a new subject for the provincial legislature and naturally there is a great divergence of opinion as to the utility and effectiveness of such a measure. It contains provisions for the fixing of certain rates of interests which are of a sweeping nature, proposes to give retrospective effect to most of the clauses, provides for the refund of the decretal amounts, tries to modify the rule of evidence contained in the Indian Evidence Act, provides for the setting aside of decrees, allows a period of abeyance, exempts from attachment certain articles and so on. These are contentious points on which opinions are bound to differ and they should be imposed after very careful consideration and with the approval of the parties concerned.

Sir, the existing laws of the land such as the Civil Procedure Code, the Indian Contract Act and the Usurious Loans Act, etc., have already conferred upon the courts ample powers to deal with the subject equitably and to put a check on the harsh and unconscionable loans carrying excessive interests. Besides, there is another piece of legislation of a similar nature at present before the House, the Money-lenders Bill of Khan Bahadur Maulvi Azizul Haque, and the mover of the present Bill could achieve his objects by moving amendment thereto

In dealing with the proposed Bill, we must bear in mind that to give relief to the debtor, we should not be unnecessarily severe on the creditor, for in your zeal to ameliorate the condition of the tenant debtors you cannot conveniently ignore the services rendered by the much-condemned money-lenders for the uplift and advancement of this country. Though the fate of the debtor and creditor is thus intermingled, I am sorry to say that I do not find a single word meant for the relief of the creditors in the proposed Bill.

In every country the tenant and cultivator need some capital either for current requirements or for carrying out permanent improvements of their land. The major portion of the fund required for the above purposes is supplied by the local money-lenders and in the words of the Bengal Provincial Banking Inquiry Committee—"the money-lender performs a necessary function and as he has detailed knowledge about his customers, he cannot be easily ousted from the field." So in dealing with a measure of this nature you should not ignore the money-lender altogether.

Sir, I am all alive to the helpless condition of the tenant of Bengal. I know he is over head and ears in debt—and he deserves our immediate sympathy and help. But I must say that there is ample room for doubt whether a legislation of the proposed type will give him the relief he is in need of.

To bring down the rate of interest in the manner proposed or to repudiate the money-lenders' dues is not and cannot be the proper remedy for ameliorating the admittedly pitiable condition of the tenants. Some constructive means should be found out to deal with the problem of agricultural indebtedness and before you try to oust the money-lender from the field, you should establish sufficient credit agencies such as land mortgage banks, etc.; otherwise a legislation of this nature will only help to rouse the passions of the tenants against the money-lenders. The helpless condition of the agriculturists and labourers should not be allowed to drift any longer. They are on the verge of ruin and drift which means disaster and that at no distant date. And the way in which the temper of the *raiyat* is being embittered in certain districts of Bengal is very ominous. The talk of repudiation of debts that is sometimes audible is not at all a remedy. It will only choke the source by which the *raiyat* gets the succour. On the morrow of repudiation he will require a fresh debt and after the overthrow of the money-lender, I do not know where he will get it. The money-lenders of Bengal are not as a rule unreasonable—they are not even slow to forego the interest or even part of the capital if the circumstances so demand.

Sir, I make these observations to point out the lines on which the Bill should be based. And I think it is of utmost importance that public opinion should be consulted and independent criticism invited on the provisions of the Bill before it is sent to Select Committee.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I do not oppose the introduction of this Bill. But I suggest that it should go for circulation at this stage to elicit the opinions of those who are vitally affected by the provisions of this Bill.

Neither do I intend to criticise the various provisions of this Bill at present, though many of them are open to criticism.

Mr. Baksh pleads for 20 per cent. as the rate of interest and that a rate higher than this should be penalised. I have no objection; but if the money-lenders refuse to lend at this rate, would Mr. Baksh secure loans for the poor cultivators from some other sources at this stipulated rate of interest? That is the whole issue. It is very doubtful, Sir, if legislation can ultimately bring the millennium which is expected of it.

Mr. Baksh, I suggest, is not correct in his calculation of the "period of abeyance". *Sraban* is the month when the tenant gets money out of the sale-proceeds of the produce of his land, especially jute. And if he is by law exempted from paying in that period, he will certainly not be able to pay when his pocket will be empty. Our agriculturists have no capacity to save, I know. But I also know that by habit and inclination they are not frugal. So if you make them free when they can pay, you cannot compel them to pay when they cannot.

I have noticed the exhaustive list of the articles of the tenants which Mr. Baksh wants to make free from attachment. But I may be pardoned when I say that over and above all these articles what else is left for attachment? It ultimately comes to this that there should be no attachment.

I am grateful to Mr. Baksh for his very kind reference to the great Hindu law-giver Manu in connection with the Usury Law. But I am sorry to say that that alone will not protect us from the Kabulis with *lathi* as Khan Bahadur Maulvi Azizul Haque complains. The holy Quoran ought rather to have been quoted in this connection. And how I regret to say that Mr. Baksh has found motives in the courts and judges giving decree at a high rate of interest because he thinks that the courts themselves are the money-lenders. I do not know how far it is true. With these few remarks, I suggest the circulation of the Bill.

The following motions were called but not moved:—

Maulvi ABUL QUASEM to move, by way of amendment, that the Bill be circulated for the purpose of eliciting public opinion thereon before the 21st January, 1933.

Mr. P. BANERJI to move, by way of amendment, that the Bill be circulated for the purpose of eliciting public opinion thereon by the 15th January, 1933.

Mr. SARAT KUMAR ROY: Sir, I rise to support the motion for circulation moved by Mr. Poddar.

Money-lending and the vice of usury have existed in this country from time immemorial and it is certainly desirable that this evil should, if possible, be rooted out to serve the interests of the country.

But there are various factors which require careful consideration.

Our agriculturists are poor. Over and above their accumulated indebtedness, they require loans periodically for—

(*a*) agricultural operations,

(*b*) domestic wants, and

(*c*) ceremonial requirements.

It is well-known that joint stock banks in India seldom advance money to the agriculturists and there are only an inadequate number of co-operative credit societies. State aid is also not available to them except in case of dire necessity and even then it is available only to a limited extent.

It is the village money-lenders who supply the bulk of finance——

Maulvi SYED MAJID BAKSH: At this stage may I submit one point, Sir, which may shorten the discussion on this subject? I am willing to accept the circulation motion.

The following motion was called but not moved:—

Babu KHETTER MOHAN RAY to move, by way of amendment, that the Bill be circulated for the purpose of eliciting opinion thereon by the 14th January, 1933.

The motion that the Bengal Tenants' Protection from Usury Bill, 1932, be circulated for the purpose of eliciting opinion thereon by the 31st January, 1933, was then put and agreed to.

The Calcutta Municipal (Amendment) Bill, 1932.

Maulvi ABUL KASEM: I beg to move for leave to introduce a Bill further to amend the Calcutta Municipal Act, 1923 (Bengal Act III of 1923).

(The motion being opposed by several members.)

Maulvi ABUL KASEM: I want an opportunity to place my case before the House, but I find that there is no time. I would accordingly want an extension of time, Sir. I am in a critical position. At the very initial stage an objection has been raised and, therefore, I should have the same advantage as at the second reading of the Bill. If you will kindly give me ten minutes' time, then I can put forward my case.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I intervene at this stage, Sir? If Mr. Raheem also would move his motion, then I could make one statement on both of the motions.

Mr. PRESIDENT: Mr. Raheem's Bill cannot be moved until we have disposed of this one. However, you can make your statement if you so desire.

7 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I state that Government are prepared to allow four more seats to the Muhammadan community on the Calcutta Corporation, so as to fix their representation on the population basis, on the understanding that these

would stick to the provision of the Act which was the result of a compromise arrived at between Government and the representatives of the Muhammadans in this Council in 1923. I may remind hon'ble members that there was sufficient discussion over the question whether there should be joint or separate electorate in the Calcutta Corporation, and at the suggestion of Mr. Langford James, the then Leader of the European group, the representatives of the Muhammadan community accepted a compromise, *viz.*, that there should be separate electorate for the first nine years, and that after that there should be joint electorate with reservation of the same number of seats now enjoyed by them under the system of separate electorate. Sir, Government are now prepared to bring their number up to their population by adding four more seats with joint electorate, provided the Muhammadans are agreeable to the condition.

With these few words, Sir, I would request the mover of the Bill to withdraw his motion.

Khan Bahadur MUHAMMAD ABDUL MOMIN: May I ask, Sir, how will that be given effect to?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: In answer to that, Sir, I may say that Government are prepared to bring a Bill this very session, and to get it passed, so that the joint electorate and the increased number of seats would come into operation simultaneously.

Maulvi ABUL KASEM: Sir, not only has an objection been made to leave being granted to the introduction of my Bill, but some statement has also been made by the Hon'ble the Minister in charge of Local Self-Government on behalf of Government. Sir, I am sorry to say that I feel it my duty to state that I cannot agree to the proposal of withdrawing my Bill in spite of the Hon'ble Minister's statement. I want not only to put my case before you, but also to reply to his statement and his arguments. But unless I get time, Sir, I cannot do it. You, Sir, on a similar occasion in the past, when an objection was raised to a measure almost identical to this, called upon me to make a statement in reply to the arguments. Therefore, Sir, following that precedent of yours, although in this same Council but in another house, I want your permission to state my case.

Mr. PRESIDENT: All right, I shall give you time to make a brief statement.

Mr. S. M. BOSE: Sir, under section 51 of the Rules and Standing Orders, this Bill ought to have been sent seven days before to-day. I got a copy of this Bill by post only on the 19th at 4-45 p.m., and on that ground, Sir, I oppose the motion for the introduction of this Bill.

Mr. P. N. GUHA: With your permission, Sir, I should like to raise a similar objection. I hold a cover with postal stamp showing the date and time of delivery.

Mr. PRESIDENT: That objection cannot be raised at this stage, but at the next.

Maulvi ABUL KASEM: In the first place, in asking for leave to introduce the Bill, I must say, Sir, that I had a great agitation in my mind in taking the step I have done of giving notice for the introduction of this Bill, for the very simple reason that this Bill, if passed, will be an amendment to the Act of 1923, piloted by my late revered leader, Sir Surendranath Banerjea, and I thought that it would be an act of sacrilege on my part to interfere with it. But, Sir, I venture to do so, because I am confident from my experience and knowledge of recent Corporation affairs that the framer of the Act, if he had been alive to-day, would have approved of my action, and because, I feel that, his expectations have been all falsified. Sir, it has been said that in 1923, a compromise was arrived at by various sections of this House by which a stipulation was made that separate electorate would be given to the Mussalmans for the first nine years, and after that there would be joint electorate with reservation of seats. I know that, Sir, and, in reply, I may be permitted to say that at the time when this compromise was made, both the Hon'ble Minister in charge of the Bill and my Muhammadan friends here in the Legislative Council had hopes,—and reasonable hopes,—that after the working of the Corporation for nine years, there would be no necessity to ask for separate electorate, and that the peaceable working of the Act and the friendly attitude of the two communities towards each other, would restore mutual trust and confidence, and that there would be no question of separate representation which, to speak the least of it, is against the very principles of democracy. But unfortunately, Sir, the situation, instead of improving, has grown from bad to worse, and, therefore, for the protection of our interests and our rights, it is necessary that separate electorate must continue for some time to come.

Sir, we have been told by the Hon'ble Minister that the Government are prepared to give four or five additional seats to the Mussalmans in order to satisfy them, and that too on a joint electorate basis. I respectfully submit to this House that so far as we are concerned, we do not care what is the religion, the nationality, the faith, or belief of the members of the Corporation. What we want is a certain number of men who will get their mandate from their community and faithfully carry it out. The religion or faith of a man is nothing to us; it is the influence and authority of the person who represents us with which we are vitally concerned. I submit, Sir, that, situated as we are at the

present moment, it is unfortunate that the relation between the two communities is not cordial; the feeling between them is not at all friendly. Had it been so, there would not have been any necessity for me to bring forward a motion like this.

Sir, I submit that the reasons are not far to seek. The Mussulmans have been accused of communalism, because, in season and out of season, they ask for separate electorate. It is a fact, Sir, that they realize, like any other body of men, that it is, as I have already said, against the principles of democracy. But we have been driven to it, not by our own choice, Sir, but by necessity. If my fellow-countrymen would care not to interfere or tamper with the electorates or, after election, with the elected members, there would have arisen no necessity for separate electorate. We are not afraid of our responsibilities as citizens of the town, but what we are afraid of, is that such men will be chosen from amongst our co-religionists as will not faithly represent the interests of the Muhammadan community in the Corporation. It has been said, and said truly, what have these 15 men, who have been returned through separate electorate, done so long for the Muhammadans? Sir, I have not the good fortune of being in the Corporation or in the secrets of the Corporation. From those people, at whose instance I have given notice of this Bill, I understand that in a House of 90, 15 are a negligible minority, and it is to their eternal credit if they had been able to do something tangible and good, or, at least, have been effective in preventing some wrongs that might have been done to them by the members of the Corporation and the Corporation itself. Sir, I want to press upon this House one very important point. If the Mussalmans of the city of Calcutta want separate electorate, it is a question which concerns the Mussalmans of Calcutta, and Calcutta alone. If they are not in a position to accept joint electorate, I cannot understand, Sir, why should any other community or the Government thrust it upon them

Mr. PRESIDENT: I am afraid you must try to cut short your statement.

Maulvi ABUL KASEM: I would have finished by this time, Sir, if Mr. S. M. Bose had not taken a few minutes when he raised his point of order. However, I shall try to be as brief as possible.

What I submit is this: that the best method to do away with the separate electorate question once for all, is for my countrymen who are better educated and who have had practically an exclusive privilege of holding high offices in this country for many years, to infuse and create trust and confidence among the members of the weaker community, who have not been in high positions in administration, and that as soon as that trust is created there will be no necessity

for separate electorate. But I submit, Sir, that so long as that confidence is not restored and that trust created, there is bound to be separate water-tight compartments for the representation of Hindus and Muhammadans in this country.

Mr. PRESIDENT: Before I adjourn the Council, I must make my position clear in regard to the point of order of Mr. S. M. Bose. He can, if he chooses to do so, raise his objections at the proper stage, and I shall consider them on their merits.

Adjournment.

It being 7-15 p.m., the Council was adjourned till 3 p.m., on Wednesday, the 23rd November, 1932, at the Council House, Calcutta, without question put.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 23rd November, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja SIR MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 115 nominated and elected members.

Obituary reference.

Mr. PRESIDENT: Gentlemen of the Council, it is with deep regret that I convey to you the melancholy news of the death of Babu Satyendra Nath Roy of Behala, a sitting member of this House, this morning at his Behala residence. Last session the member was with us and took an active part in the discussion of the Bengal Municipal Bill. Mr. Roy was the Chairman of the Behala Municipality and noted for his public activities and courteous manners. I knew him very intimately and his loss is mourned by a very large circle of friends. I propose, with your leave, to convey to the bereaved family a message of condolence of this House and to ask you kindly to endorse what I have said by rising in your places.

[Pause.]

(All the members then rose in their places.)

Mr. PRESIDENT: Thank you, gentlemen. The Secretary will please take the usual steps.

STARRED QUESTIONS

(to which oral answers were given)

[illegible]ha Union No. IX of Jessore.

*13. **Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state whether the inhabitants of the Siddipasha union No. IX of district Jessore have submitted a memorial to His Excellency the Governor of Bengal praying for the transfer of their union from the Abhoyanagore police-station in Jessore to the Daulatpur police-station in the Khulna district?

(*b*) Is the Hon'ble Member aware of the inconvenience felt by these people on account of the distance of the police-station and the sub-divisional headquarters from their union?

(*c*) Is it a fact that the Government are considering the advisability of transferring the said union from the Abhoyanagore police-station to the Sadar police-station, Jessore?

(*d*) Is the Hon'ble Member aware that this will increase the difficulties of the people of the said union?

(*e*) Are the Government considering the desirability of transferring the said union to the Daulatpur police-station of the Khulna district?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) Yes.

(*b*), (*c*), (*d*) and (*e*) The whole question of transfer is under the consideration of Government.

Facilities to members of legislature to see high officials.

*14. **Maulvi SYED MAJID BAKSH:** (*a*) Is the Hon'ble Member in charge of the Appointment Department aware—

(*i*) that the members of the Bengal Legislative Council have to see high Government officials on business;

(*ii*) that they are occasionally inconvenienced as some of the officers refuse to see such members;

(*iii*) that at one time an Under-Secretary of the Home Department refused to see a member and the matter was reported to the Government;

(*iv*) that recently the late Commissioner of the Presidency Division refused to see a member who wanted to see him on urgent business?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of issuing instructions on the matter?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) (*i*) Yes.

(*ii*) Government are not aware that any M.L.C. has been refused an interview when an officer has been free to see visitors.

(*iii*) If the member is referring to an incident in which he himself was concerned, it is not the case that the Under-Secretary refused to see the member.

(*iv*) Government have no information on the subject.

(*b*) Does not arise.

Bharasanga-Peshkarhat Khal Scheme.

*15. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Irrigation Department be pleased to state—

(*i*) when the work of preparing the scheme for excavating the *khal* from Bharasanga to Peshkarhat, police-station Anwara, district Chittagong, was undertaken and when it will be finished; and

(*ii*) what is the estimate of the scheme?

(*b*) If no scheme is yet ready, will the Hon'ble Member be pleased to state what is likely to be the rough estimate?

(*c*) Are the Government considering the desirability of providing the money in the next year's budget?

(*d*) Is the Hon'ble Member aware that no money was spent in the Chittagong district for irrigation works?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (*a*) (*i*) The investigation began in 1930. It is not possible to state when the work of preparing the scheme will be completed, because further observations may be necessary and it is not certain whether the scheme will be beneficial.

(*ii*) No estimate can be prepared until the investigation is completed.

(*b*) It is not possible to state any figure at this stage.

(*c*) The question does not arise.

(*d*) The member is referred to the reply given to him on 5th of August last to his question on the same subject.

Boro paddy cultivable lands.

*16. **Maulvi ABDUL HAKIM:** (*a*) Is the Hon'ble Member in charge of the Irrigation Department aware that there are extensive areas in certain districts of Bengal which, when properly irrigated, are capable of producing paddy crops specially *boro* paddy?

(*b*) Is any money ear-marked each year for works to be done under the Bengal Irrigation Act purely for the purpose of supplying water to the said areas?

(*c*) If the answers to (*a*) and (*b*) are in the affirmative, will the Hon'ble Member be pleased to state the amount so spent per year for the last five years?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: (*a*) Yes. There are some such areas.

(*b*) No.

(*c*) Does not arise.

Maulvi ABDUL HAKIM: Will the Hon'ble Member be pleased to state why no money has been earmarked?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: There is no money.

Maulvi ABDUL HAKIM: Will the Hon'ble Member be pleased to state whether Government contemplates to earmark any money in the near future?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: It is not possible to visualise the thing in the near future.

Maulvi ABDUL HAKIM: Will the Hon'ble Member be pleased to state if any work has been done up to this time under this Act mainly to irrigate agricultural land?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: A great deal has been done.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Utilization of residential houses as quarters for additional police force.

4. Dr. AMULYA RATAN GHOSE: (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact that residential houses of citizens of Midnapore are being "utilised as quarters for the additional police force of Midnapore for one year for public advantage"?

(*b*) Is it a fact that the Superintendent of Police, Midnapore, has served notices under the Special Powers Ordinance upon Sjs. Kishoripati Roy, pleader, *zamindar*, and late Chairman, Midnapore District Board, Manmatha Nath Das, pleader, and Atul Chandra Bose, pleader, late Vice-Chairman, District Board, and Editor of *Satyabadi*, to vacate their houses as the same were to be used by the additional police force for a year for public advantage?

(*c*) If the answers to (*a*) and (*b*) are in the affirmative, will the Hon'ble Member be pleased to lay on the table a statement showing the names and addresses of persons other than those mentioned above who have been served with similar notices in Midnapore and elsewhere?

(*d*) What are the reasons for taking these steps against some people in Midnapore and other places in the province?

(*e*) Could not the police force be given accommodation in houses other than those where people were living with their families?

(*f*) Have the Government made any arrangement for housing those people who have been asked to quit their houses for giving quarters to the police force?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) Yes; four houses have been occupied.

(*b*) Yes; but in the case of Babu Manmatha Nath Das the notice was served on his father Babu Probodh Chandra Das.

(*c*) The information is available up to last September. A statement is laid upon the table.

(*d*) Attention is invited to section 5 of the Special Powers Ordinance, 1932.

(*e*) This has been done as far as possible.

(*f*) Government understand that they have made their own arrangements.

Statement referred to in answer to clause (c) of unstarred question No. 4.

Names of persons who have been ordered under the Special Powers Ordinance, 1932, to place buildings in their occupation at the disposal of Government—

Tippera district—Syam Sundar Vidyaratna, Mudafarganj, police-station Laksam.

24-Parganas district—(*a*) The National Primary School at Mahishathan.

(*b*) Akra Bari in occupation of Abodh Banerjee at Jagadishpur.

Dacca district—Bagherat Satyagraha Committee at Bagherat, police-station Tangibari.

Midnapore district—Babu Debendra Lal Khan of Keranitola.

Bankura district—(1) Jagadish Palit.

(2) Sushil Palit.

(3) Sudhir Palit and others of Betur, police-station Patrasayer.

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Public Security Bill, 1932.

The Hon'ble Mr. W. D. R. PRENTICE: I beg leave to introduce the Bengal Public Security Bill, 1932.

The motion was put and agreed to.

[The Secretary then read the short title of the Bill.]

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the said Bill be referred to a Select Committee consisting of—

(1) Reverend B. A. Nag,

(2) Khan Bahadur Maulvi Azizul Haque,

(3) Rai Sahib Sarat Chandra Bal,

(4) Babu Jitendralal Bannerjee,

(5) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(6) Rai Bahadur Kamini Kumar Das,

(7) Mr. W. H. Thompson,

(8) Maulvi Abul Kasem,

(9) Khan Bahadur Maulvi Muhammad Abdul Momin,

(10) Mr. R. N. Reid, and

(11) the mover,

with instruction to submit their report within one week from the date on which this motion is carried in Council and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

This Bill has been circulated among the members and published in the Gazette along with the Statement of Objects and Reasons. I am glad to find that the statement has excited the admiration of one of our

most insistent critics and that we have been given full credit for putting clearly before the public what we intend to do. The intention of course is that, as the present Special Powers Ordinance lapses towards the end of December, we desire to have on the Statute Book an Act providing for certain eventualities. Legislation on similar lines is under consideration in the Legislative Assembly, but there are other sections of the existing Ordinance which we consider still necessary in Bengal and which do not find place in the central legislation and these have been embodied in the present Bill. But every effort has been made to make this Bill as gentle in its application as possible. Its life has been confined to the period expiring on the 1st December, 1935. In addition, under the proviso to clause 1(4) of the Bill conditions have been laid down under which alone certain chapters shall come into force. Further, it has also been provided that when these conditions have ceased the Act must be withdrawn. The Bill gives Government no option: if the emergency that required the application of these sections ceases to exist, then the Government shall withdraw them.

This Bill obviously gives Government powers in reserve for the purpose of dealing with an emergency of the kind specified in the proviso to clause 1(4); it does not, and is not intended to, deal with terrorism, regarding which this Council passed special legislation at its last session. The type of the movement with which it is intended to deal is the civil disobedience movement.

I have explained the legal necessity for introducing this Bill, namely, that the Ordinance under which we are now acting is about to lapse. I do not think any member of this Council who knows the conditions in Bengal during the past two or three years can honestly say that there is no practical necessity for the Bill. Congress issued its challenge to Government by calling on the civil disobedience movement, and up to the present that is still the declared policy of the Congress; it has not withdrawn that challenge. On the contrary from the information already to hand I can say that certain representatives of the Congress are still plotting and planning further action in furtherance of the civil disobedience movement. In the past it has been found impossible to deal with this movement under the ordinary law and the Governor General was forced to supplement the ordinary law by a series of Ordinances. This shows that the ordinary law is inadequate to deal with certain aspects of the civil disobedience movement, and I challenge any member of the Council who says that the ordinary law is adequate to deal with the situation to point out the law which gives the powers which we propose to take under this Bill. We say that experience has shown that the ordinary law does not give us adequate powers and the powers we ask for are the minima which we require. The position has been forced upon us by the conduct of the Congress and there is no sign at present of Congress calling off the

civil disobedience movement. So long as the Congress chooses to defy ordered government so long we must be in possession of those powers, which experience shows are required to meet that challenge. If and when that challenge is called off, then the emergency which requires the extension of the powers under clause 1(4) of this Bill will cease and under the second proviso to that clause Government will withdraw the special powers from the areas in which they are enforced.

Of course at present we are dealing with the civil disobedience movement but the Bill extends up to December, 1935, because it is impossible at present to say what movements subversive of law and order may be started in the future to challenge Government. And in this connection I was rather interested to see the other day a report of a meeting recently held in Calcutta which was presided over by a member of this Council and at which another member of this Council spoke. During that meeting there was distributed to the members of the back benches a pamphlet headed "A Call to Mass-revolution." In it the following statements are made: "All of us want a mass revolution..... whether that revolution will be an armed one or unarmed one is a question beside the mark. None need express any doubt as to the indispensability of a thorough mass-organisation. Let us strive for completing this organisation. And when this organisation will be complete, none should regret if the nation, in an organised manner, adopt violent measures or non-violent measures." In these statements the authors are not referring to terrorism. For the next paragraph is addressed "To those of our friends who are now engaged in terroristic activities" and to them they say: "Stray individual actions—with great pain we must have to assert—are likely to thwart the progress of the revolution because they tend to divert the attention from the larger issue to a minor one and obscure the ideal in view. Such actions might have been necessary at the time these were first committed, but now, we believe, that stage is over. The time has come for more widespread conspiracy." Then they describe how they are going to organise the village workers in the *mufassal* and go on to say: "Let our friends bestir themselves and seriously argue over the present pamphlet. If they adopt our proposals, they will surely help the cause of revolution for which we all stand and to whose cause all our lives are consecrated." I am not saying that the party which issued that particular pamphlet is of much importance at the present moment, but the pamphlet indicates the mentality of certain groups of people who are active at present in Bengal. It is no use trying to forecast now what the results of their activities may be. But should they succeed in bringing about a situation in any way approaching that at which they are aiming, then obviously Government must be in possession of sufficient powers to deal with it and without this Bill they will not have the necessary powers.

It is rather difficult to anticipate all the objections that are likely to be raised against this Bill. I have already mentioned one, namely, that the existing law is adequate and special powers are not required. I have no doubt that this objection will be taken into consideration by the Select Committee, should the Bill be referred by the Council. But I think it right to make it perfectly clear that in our opinion experience has shown that it is entirely incorrect to say that the existing law is adequate. If any lawyer member of this Council can show that the powers proposed to be given under this Bill are already provided in the existing law, I have no doubt that the Select Committee will take that fact into consideration in framing their report.

I have referred already to an article issued recently which commented favourably on the Statement of Objects and Reasons appended to the Bill. This same article laid it down that certain conditions must be satisfied before the legislature could arm the Government with special extraordinary powers of the kind we are asking for in the Bill. The first condition mentioned was the alleged inadequacy of the existing law. I have already dealt with this. The second condition was that the legislature must be satisfied that the public actually demand this measure and that it is really needed in the larger interest of the people. One would like to know what the writer of the article means by "the public" and "people", but interpreting these terms in their widest sense I do not think any one can say that this Bill is not required in the larger interests of the people. Surely it is to the larger interests of the people to arm the Government so as to enable them adequately to protect the people in the exercise of their ordinary avocations. As regards a demand from the public, I can assure you that certain business men think that these powers are necessary to protect them in their ordinary avocations and that certain sections of the public have actually demanded it. The last point urged is that the operation of the Emergency Powers Ordinance which has been proposed to be incorporated in the Statute Book has been resented by a large majority of the people and has been highly prejudicial to their civic rights and national interests. This complaint of general resentment is an old story and came up before I went on leave. We had detailed inquiries made all over the province as to whether there was any general resentment against these powers being used, and from all sides we had reports which go to show that there was no widespread resentment and that generally the ordinary people were grateful that as the results of the use made of the Ordinances there is peace and general security in most of the districts. Of course there was resentment on the part of those against whom the Ordinance was used and who in consequence were unable to carry on their malicious activities. But there is no justification at all for the allegation that there is general resentment against the use of the Special Powers Ordinance. I suppose most objection has

been taken to the use of sections 3 and 4 and so I called for the figures to find out how many orders under section 4 were actually in force now. The results of my inquiry are interesting: In 11 districts there is no such order in force, in 10 districts the number is a single figure, and only in 5 does the number of orders reach double figures. I do not think you can say, in view of those figures, that the powers given us by this Ordinance have been used without due consideration, and restraint.

What is the alternative policy suggested by our critics? The only suggestions I have heard are conciliation and the speedy introduction of a responsible system of government. As regards the suggested policy of conciliation I would remind the Council that it was Congress which adopted the policy of challenging the established system of orderly Government. We have only accepted the challenge. If the Congress withdraws civil disobedience, then Government will reconsider its position. So long as the Congress does not do so, Government cannot consider the adoption of any other policy. The first step towards conciliation must come from the Congress which must withdraw the challenge of the civil disobedience movement. As regards a new constitution, what more can Government do? The third Round Table Conference is now sitting, but the people who are running civil disobedience have declined to co-operate in the Conference. Government is doing all in its power to expedite the arrival of responsible Government, and it is this very fact that a new constitution is coming in the near future which makes it all the more important that we should have the powers asked for in this Bill. Mr. B. C. Chatterjee says that if only an Indian Minister is placed in charge of law and order there will be peace. I hope he is right but I can see nothing in the manifestos of Congress to justify this belief that when the new constitution comes in, all trouble will cease. It is our bounden duty, I believe, not only to have the machine in good running order at the time of handing over, but also to be able to hand over along with it all the tools, lubricants, etc., which our experience has shown us, are required to keep the machine running sweetly. And these include the powers which we have embodied in the Bill.

One other criticism is likely to be made—indeed there are several amendments on this point—that it is not necessary to send the Bill to the Select Committee; it should go for circulation. Government cannot accept the proposal for circulation for two reasons. Firstly, the Ordinance will expire on the 29th December, 1932, and the Bill must be passed before that date. Secondly, do you think that circulation is going to produce any new opinion on the matter? We know what official opinion is. As regards non-officials we all know what the opinion of the non-co-operating section of the community will be. As regards the co-operating section its opinion is best voiced by the members of this Council. So nothing will be gained by circulation and

I am afraid Government must oppose the motions for circulation. I therefore press the House to accept the motion for reference of this Bill to a Select Committee, consisting of the gentlemen whose names I have already read out. The Select Committee will go into the details of the provisions of the Bill and will see whether they require any change and make recommendations accordingly. And your experience in the past must have shown you that such recommendations as a rule receive every consideration from Government.

With these observations I beg to move that the Bill be referred to the Select Committee.

3-30 p.m.

Mr. PRESIDENT: There are five motions for circulation but it will serve our purpose if only one out of these five is selected. I have decided that Mr. Shanti Shekhareswar Ray's motion shall be moved. We will have a general discussion on the principles of the Bill on that motion.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move, by way of amendment, that the Bill be circulated for the purpose of eliciting public opinion thereon by the 28th February, 1933.

Sir, what must strike all unbiassed observers of the current events in Bengal is the total unpreparedness of the Government of Bengal. I know the Hon'ble Member in charge of the Bill will perhaps be inclined to consider my amendment as a dilatory motion. He is in a hurry to get his Bill through—but here I am with a proposal which will inevitably cause a delay of four months. But I hope he will have the fairness to admit that all this could have been avoided if Government had been able to make up their mind in July last. In that case the Select Committee would not have been asked to perform an almost impossible task—that of submitting a really useful report within so short a time with practically no materials before them and then we in this House will be expected to consider the details of the Bill after a week without having any opportunity to ascertain the views of our constituency on a measure of such importance. Sir, the sanction of the Legislative Council to measures of this nature which Government are bringing up so frequently of late, will count for nothing if they are unable to secure the sanction of public opinion in the country. Legislation under such circumstances is simply a mockery. If this Bill is circulated, I am sure the Government will find that there is no demand for the measure in the country. In that case the clear duty of the Government would be to drop this unwanted and unpopular Bill. Sir, I think that this Public Security Bill will create a feeling of insecurity among the people. The policy of indiscriminate arrest and internment without trial has created much bitterness in the country. Instead of allaying discontent, this

attempt to perpetuate the ordinance under a different garb will simply aggravate the situation. Perhaps the Government are flattering themselves with the belief that they have succeeded in defeating the civil disobedience movement. But will they pause to consider the effect of their measures on the countryside? I would ask the House to visualise the condition of the helpless but brave people of Midnapore. In that district a happy and contented peasantry are being exposed to the lust and devilry of the punitive police force stationed there in the name of law and order. Sir, I want the Government to realise that the measures taken to suppress the civil disobedience movement have largely contributed to swell the ranks of the terrorists.

Sir, I shall deal with another aspect of this Bill. I shall refer to chapter IV of the Bill. It is indeed very generous and sporting on the part of the Government to come to the rescue of the landholders in the matter of collection of rents. But I think the landholders, as a rule, will reject this offer with thanks. The provisions of the Bill in chapter IV will set the tenants against the zamindars. I ask the Hon'ble Member in charge of the Bill to state if there has been a demand from any landholders' organisation in Bengal to incorporate such a provision in the Bill. I am sure if the landholders are asked to express their opinion they will protest against this attempt to alienate the tenants. As a landholder, I earnestly implore the Government to leave the landholders alone, and not make our position impossible with the tenants by involving the landholders in a retrograde policy calculated to crush all organisation, all the spirit of self-reliance—in fact all that is good in the country.

Mr. ANANDA MOHAN PODDAR: Sir, as the Special Power Ordinance (X of 1932) will expire on the 29th December next, the object of the Bill is to empower the Local Government with similar powers as were contained in that Ordinance to combat the activities of the civil disobedience movement.

Sir, it is our misfortune that we cannot avoid debates of this nature in any of the Council sessions nowadays. It is also our misfortune that we on this side of the House are unable to give our support to the Government when we are asked for it for the simple reason that we are not convinced that this sort of measure is the proper remedy for the disease. We voice the opinion of the public when we say that this Bill, or the Ordinance on which it is based, is not the right remedy to combat the civil disobedience movement and that it will not have the effect that the Government wants it to have. These Ordinances and measures have been in the hands of the Government for a pretty long time—and if they have produced a good effect then the Government would not find any necessity of introducing them over again. It has been declared, times without number, on behalf of the Government that a measure like this is equally distasteful to them as it is unwelcome to the members of

this House and the public outside. But in spite of that we find the Government seeking for these special powers, because they fail to take a statesman-like view of the situation and because they are unable to change their angle of vision.

Sir, I do humbly ask the Member in charge of the Bill—why only rely on this measure which is distasteful to yourself; why not do something else which will stimulate all sections of the community to offer spontaneous co-operation to combat the civil disobedience movement? It is certainly not a fact that all sections of the people are in sympathy with the civil disobedience movement or the terrorist activities. But it is also a fact that the Government do not receive the active help and co-operation of that section of the public who are at heart against these movements.

Sir, we the merchants, are the worst sufferers by these movements. It has dislocated our business, deprived us of our legitimate means of livelihood, landed us in heavy financial difficulties and is threatening us with utter ruin and disgrace. But we must frankly admit that we are unable to render unto the Government any practical help because the Government do not care to put reliance on our opinion. When we ask our countrymen, our neighbours to secede from the civil disobedience movement, to stop these activities, which are prejudicial to social interest, they would promptly reply—don't you see the repression in the country—don't you see that men like Sj. Subhas Chandra Basu or Sj. J. M. Sen Gupta are confined indefinitely without trial—do you think until the Government changes its policy anybody will care to give his genuine support to the Government?

Sir, you are treating the civil disobedience movement in a similar manner as you treat the terrorists and thereby you have lost the sympathy of the right-thinking people of the country. We find every day that respectable persons with national aspirations are arrested and interned. You cannot blame the public if they think that you are out to fight with these weapons the rising spirit of nationalism.

Sir, according to the Government version as expressed in various reports, the civil disobedience movement is dying or almost dead—matters have now calmed down. So one can rightly say that there is no state of emergency which calls for the promulgation of temporary measures like ordinances. If there be no state of emergency you can carry on with the ordinance laws of the land. If the situation in future requires it you can promulgate a new ordinance. But do not flout public opinion and alienate the sympathy of those who are really your true friends.

Sir, I do not see why there is such indecent hurry in this matter. If you were really in need of a measure like this you could introduce this particular Bill along with the Bengal Suppression of Terrorist Outrages Bill and the Bengal Criminal Law Amendment Bill which were enacted

in the last August session, and ascertain public opinion thereon. The public would then get some time to consider and offer criticism. And you would not then be accused of rushing through this Council. Sir there is another aspect. The suppression of natural political outburst of nationalism of the people is spreading more and more discontent in the country. The economic situation also has a great deal to do with it People are daily thrown out of employment: those who depend on the income of their business or landed property for their livelihood are to-day without income and are faced with starvation, educated youths find it impossible to secure employment. These are not a little responsible to give impetus to the civil disobedience movement. If you do not try to remove these deep-rooted causes you will never succeed to cope with the situation with repressive measures of this type.

Sir, we are on the eve of great constitutional changes. It is needless to say that if real power is conferred on the people by the coming reforms, the discontent in the country will vanish and the civil disobedience movement will die a natural death. So if the Government is really anxious to establish peace and harmony in the country, it would be more business-like to push forward the claims of the children of the soil for satisfaction of their legitimate aspirations.

Sir, with these words I commend the Bill for circulation.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I oppose this motion for circulation for the simple reason that Mr. Prentice is quite right in thinking that nothing would be gained by circulation. For public opinion on this subject is very well known. Mr. Prentice knows it as well as any one of us, although he may pretend to know it differently from what it actually is. Public opinion is well known, Mr. Prentice does not take his stand on public opinion; he does not care for public opinion so long as he is sure of a majority in this House. Circulation is therefore out of the question. It is not a Bill which seeks public support; on the contrary, it throws out a challenge to the whole country. Here is a Government with all its armoury of power, and Government, as Mr. Prentice puts it, has accepted the challenge, thrown out by the Congress. He may be right or he may be wrong. The Congress may have thrown out a challenge. Any way, there is a challenge met by a challenge. There is a fight and Government is virtually itching for a fight. Every word of the Bill indicates—every word that Mr. Prentice has uttered, indicates—that they are itching for a fight. I do not care whether it is the Government or the Congress who first threw out the challenge, but the fact stands that whoever may have thrown out the challenge, the challenge has been met by a counter-challenge which again has been met by a counter-challenge, and thus the ball goes on rolling, gathering strength like a snow-ball. After all there is only one consideration which is of paramount importance but which is altogether forgotten in this trial of strength against strength.

The paramount question is that the welfare of the people—well, that, of course, is the least material thing. I can claim—though I have not been to Mr. Prentice to whisper soft and sweet lies in his ears—I can claim that I have been one of those persons who have never hesitated to express their complete disagreement with the entire programme of the civil disobedience movement. I am as much convinced as Mr. Prentice himself that civil disobedience is a dangerous thing, not merely on account of its immediate consequences, but because of the great repercussions and of the harmful effects upon public life in general in the long run which it must necessarily produce. Regard for law and order is a very tender plant in the mind of men which has grown through ages and centuries. Civil disobedience cuts at the root of that plant, and those who taught us civil disobedience hardly knew that they were cutting at the root of one of the fundamental instincts of the human mind. However, Sir, we are not out here to criticise the civil disobedience movement. I should have been very glad if Government had given a fair fight to civil disobedience. By fair fight I understand a fight with the propagandists of the movement who rely upon the support of public opinion generally by an appeal to public opinion: Government might, with profit, have invoked public opinion in their favour. They might have cultivated cordial relations with the people of the country. But one hundred and fifty years of British rule in India have unfortunately not prepared the ground for that sort of relationship on the part of the present Government. They have built themselves an edifice upon foundations of antagonism to the people believing in their own strength, and they are not prepared to be dislodged from that position and to descend to the humble position of merely serving the country. If they could have convinced the people that they were their friends, if they had gone out to the people and convinced them—not by words but by deeds—that they were their best friends and well-wishers and not those who were asking him to follow them in their campaign of civil disobedience, I could have called that a fair fight. But Government have fallen back upon resources, about the magnitude of which no one had ever had the slightest doubt. The Government possess unlimited powers and the strength of a giant, and in the struggle they expect that they will come out victorious, at least temporarily. I know they have no doubt of it. But in case they succeed, would you call it a success in the *real sense* of the term? How many thousands of people have you put into gaol and how many thousands more would you have to throw into the dungeons? Can you contemplate a state of society in which you can place permanently a large population inside the jail—people who have not committed any crime known to civilised jurisprudence? If you go on like that, the administration of the province will go from bad to worse.

Sir, the Hon'ble Mr. Prentice has referred to the experience of Government and Government officials, but I might refer him to the

experience of others—which cannot be ignored. History and experience show that the more you forge your weapons of repression, the more terrorism will go on increasing. If you care to examine the history of the period since the idea of civil disobedience movement was first thought of, and when non-co-operation was launched—I refer to the year 1921—you will find the same tale. Is it not a fact that terrorism has made great strides during the interval, and is it not a fact that terrorism has always succeeded to the same extent, that the non-co-operation movement was muzzled, checked, or crushed?

Well, Sir, the Hon'ble Mr. Prentice has told us that experience has shown that repressive measures have helped in curbing subversive activities. He has asked us to point out whether the ordinary law gives him powers adequate enough for dealing with the problem of civil disobedience. I admit, Sir, that the ordinary law does not give him these powers which he seeks; no civilized law can ever give the Government such powers ordinarily. The difference between him and myself is that he would deal with civil disobedience in one way, whereas I would deal with it in another way. Sir, we constitute what Mr. Prentice calls the "ordinary public", who, he thinks, are grateful to Government. These have not thrown any challenge to Government. But we, the members of the "ordinary public" are being ground between two stones. Distress is increasing in the country every day. Why? Because this insensate war is being carried on between the two parties concerned. We want breathing time. Mr. Prentice thinks that by means of these powers civil disobedience could be made to disappear entirely. In the meantime we must hold our breath! If I were convinced that within a reasonable time such legislation would lead to an end of the subversive movement that is abroad, then I would have been very glad to lend my support to it. But this Bill is going to do no such thing. The title of the Bill is a misnomer. We recently had a Bill intended to *suppress* terrorism. Well, I should call this a Bill for the *extension* of terrorism. We are at cross purposes. So long as the mailed-fist attitude continues on either side and so long as these challenges and counter challenges continue, we cannot have peace in this land.

The Hon'ble Mr. Prentice says that experience of these powers has shown that they are capable of suppressing subversive movements. Well, we too have some experience. I have studied full well the history of the civil disobedience movement, and I can confidently say that his conclusions are wrong. I cannot claim to have that wide knowledge that Mr. Prentice has, but I have had a considerable experience of it, and I have found that there have been times when the civil disobedience movement has been on its last legs, but then the Government came out with the ordinances. We had first of all one

ordinance; then came another, and each new ordinance gave a new lease of life to the cult of civil disobedience. I do not know whether the Hon'ble Mr. Prentice has any idea of that. He probably thinks that the success of these repressive measures is properly measured by the number of people in gaols. Does he know that that is precisely what many of these people want? They revel in it, they gloat on it. I say, Sir, that there are a number of men who are never never so happy as when they are in gaol. And with *increasing* unemployment, with increasing distress, and with a growing sense of highhandedness on the part of Government the number of such people is daily increasing. It is no exaggeration to say that the number is increasing. At present the number is so large that Government cannot adequately tackle their problems. Let us assume for agreement's sake that civil disobedience has been killed by this extraordinary legislation, but what about the boycott? The boycott movement had been started many times before this. Before the present time the boycott movement had to be pushed through at the point of bayonet by aggressive picketing. Well, but in spite of the picketing British goods used to be sold. But look at the picture now. There is not now a single self-respecting family in Bengal who would care to look at British goods. These people do not parade their feelings. What has the Hon'ble Mr. Prentice got to say to this? He may have his own ideas about strong and firm rule, but——

(Here the member having reached his time limit resumed his seat.)

Mr. W. H. THOMPSON: Mr. President, Sir, before saying anything else, may I congratulate the Hon'ble Mr. Prentice on having made what seemed to me the most persuasive speech that I have heard him make in this House. He has anticipated much of the criticism of the Bill that we have heard so far, but I would like to refer to a criticism made by the last speaker but one, who objected to this Bill, because, he said, it was treating the terrorist and the Congress movements on exactly the same lines. Sir, that is by no means the way in which the matter has struck me. During the last three centuries, democracies in the West have fought their battles against their old enemy, autocracy, until we were told that the Great War would finally make the world a safe place for democracy.

4 p.m.

Since then there have arisen two new menaces to democratic freedom. In the West the gangster system in America has developed to such an extent that the Government, though it is a democracy nearly two hundred years old, has entirely failed to deal with it, and in Central Europe the new weapon of direct action has been forged. Both these are subversive of good government. One is frankly and unblushingly criminal, the other is not so blatant, but it is an attack, upon the

liberties of the subject with the object of forcing the will of one section of the people on the State. Unfortunately these two menaces have come to Bengal together and infant democracy in Bengal will have no chance at all unless both snakes are scotched. To deal with them the Government took powers by Ordinance. Then the time came when the Ordinances were to be replaced by legislation and in August last this House gave Government the powers which it asked for to deal with the terrorist menace. There might have been twin Bills at that time and I wish that there had been, but only one Act was born. Then after an almost indecently short interval we were told that a Bill would be introduced to replace the Special Powers Ordinance and we expected that the Bill would reproduce most of what that Ordinance contained. But after mountainous labour the Government of Bengal has given birth to a mouse. There is very little to fuss about in this Bill. Most of the powers of the Special Powers Ordinance have been whittled down or removed. There is very little of the Ordinance in this Bill except to make it an offence and to provide punishment for instigation towards non-payment of a notified liability. There is I think no person in this House who will really boggle at what there is in this Bill. I believe that when the matter is finally put to the vote, you will find that there is no objection or very little objection to what is contained in the Bill. For our part the members of the European group will support the motion for reference of the Bill to a Select Committee.

Mr. B. C. CHATTERJEE: I join Mr. Thompson in congratulating the Hon'ble the Home Member on the brilliant speech with which he has presented the Bill and there could not have been a better presentation of the Government's view than we had from him. But all the words that he uttered failed to impress us because he belongs to a Government which is autocratic and not democratic. He made the greatest use of such words as "right" and "privilege". These words have no meaning in this House or in this country. There is no such thing as law except any which issues from a government that is not founded on the consent of the people. Mr. Prentice belongs to a Government which is not based on public opinion and therefore what he promulgates is not law but something which is just as autocratic as it could be and is forced down on us without our consent. There is no such thing as right which is possessed by us in Bengal. What he calls a right is merely a licence tenable during Mr. Prentice's pleasure and revocable at his will, because there is no such thing as right unless that thing owes its existence to the popular voice and owes its continuance to the will of the people. There is no such thing here and therefore I admire the Hon'ble the Home Member's speech very little as he was making, I am constrained here to say, a speech in an atmosphere which kills itself. If the Home Member in the House of Commons made such a speech it would have been entirely different. The Home Member had

behind him the will of the majority of the House and his edict is the true law because it represents the will of the majority of the House. I am afraid I will get into a pit if I say you must hasten the time when Mr. Prentice or any body else in his place can speak on your behalf and not only on behalf of the few of his doubtful allies to his left or to his right. In other words I must say I do not understand why Government resort to these repressive measures when they cannot carry with them those who are against these measures. The Congress people or the Swarajists are willing to co-operate with the Government when there is a real conferment of power on the people. Naturally I am referring to the Calcutta Corporation. How is it that in the midst of this non-co-operation movement you have a body in Calcutta where the Swarajists are co-operating because they are working an institution which was brought into being by a reformed Minister in this Council? Why are they co-operating? Because they have been conferred a real right. Why be so higgardly or miserly in the matter of extending the experiance that you have tried in the Calcutta Corporation? I know several persons will say "God save us from self-government if the Bengal Legislative Council is to become an exaggerated edition of the Calcutta Corporation." (Cries of "Hear, hear," from the European benches).

The cheering gentry possibly mean there has been mismanagement of Corporation, but I know that with all its defects the present Calcutta Corporation has done more for the people of Calcutta than its predecessor ever did. Take for instance the northern part of Calcutta. The northern quarter of Calcutta which it was impossible for any one with a decent sense of smell, to go through, has now been so improved under the ægis of the present Corporation that it can stand comparison with Chowringhee. You will find all the principal streets and lanes and even bye-lanes or blind alleys have been tarmacadamed. You find more grants for hospitals than under its predecessor; you find maternity homes and other amenities of life provided by the Calcutta Corporation, of which we never heard before. I have no doubt that if we get the right of self-government we shall give no occasion to our critics——

Mr. C. C. COOPER: On a point of order, Sir. I do not understand how this matter can be brought before the House in connection with this Bill.

Mr. PRESIDENT: Mr. Chatterjee is in order. I think an exposition of that analogy is pertinent and permissible.

Mr. S. C. CHATTERJEE: He knows I was quite in order but he was getting uneasy because I was getting my good arguments home.

If the Home Member can persuade by his arguments the people in England to try an experiment in this country from to-morrow or day after to-morrow, of making a transfer of powers and seeing whether the Swarajists do or do not respond he will do a great service to Government. What I am afraid of is that this Bill is an anticipation of the fact that the Round Table Conference that is going on and the forthcoming legislation that we expect after it has concluded its labours, will not give us self-government. That is what I am afraid of. I have nothing to say against the members of the service. They have shown wonderful moral and spiritual adaptability. Members of the Civil Service have worked under Ministers very well, with self-discipline and self-denial as I openly stated so many times. It is not the Civil Service but it is the people at home who are at fault. At the present moment Government is in the hands of the people whom we have always regarded as reactionary.

The Hon'ble Mr. W. D. R. PRENTICE: I rise to object to this criticism of the members of Parliament.

Mr. B. C. CHATTERJEE: Then what am I to do? Whom am I to criticise? I am not criticising——

The Hon'ble Mr. W. D. R. PRENTICE: This Government is not responsible for the action of the Home Government.

Mr. PRESIDENT: What were the words you used?

Mr. B. C. CHATTERJEE: I forget the words I used.

Mr. PRESIDENT: You have a very convenient memory. (Laughter.)

Mr. B. C. CHATTERJEE: After the Home Member has interrupted me I forgot the words.

Mr. PRESIDENT: You cannot criticise the Home Government irrelevantly on the floor of this House but I thought you were speaking of the general attitude of a section of the British people towards India.

Mr. B. C. CHATTERJEE: Yes, Sir. That section of the people in England who now seem to be in predominance cannot reconcile themselves to the idea of India becoming self-governing. Those people will always say what is going to happen to our boys if India gets self-government. That is what they are afraid of. I am afraid what Mr. Prentice is bringing in is really a sort of foretaste of what is

coming—that we are not really going to have self-government. We shall get some kind of an admixture which no self-respecting people will be able to accept or work. I am afraid that this Bill is a warning Bill to this legislature. I am apprehending that the Hon'ble the Home Member knows that a measure like this will be necessary because nothing is coming on which will do away with the necessity of measures like the present. If the Hon'ble the Home Member can give us an assurance to the contrary, if he can assure us that in the coming reforms we shall have provincial autonomy, we should be very thankful to him. Meanwhile it would be merely wasting our time by talking unnecessarily like this. We shall never be able to agree to the demands of the Hon'ble the Home Member. We, every one of us, who feel for his country shall oppose him and shall always work to that end. We see that the time is not far when we shall have real self-government and people like the Congressmen can come and work under the Government as they have shown their absolute willingness to govern in the Calcutta Corporation.

(At 4-20 p.m. the Council was adjourned and it reassembled at 4-30 p.m.)

Mr. P. BANERJI: On a point of order, Sir. It is in connection with the ruling given by you on a point of order raised by the Hon'ble Mr. Prentice. We could not follow it properly.

Mr. PRESIDENT: What I meant to say was that the Home Government could not be criticised on the floor of this House irrelevantly. Perhaps, you want to know if any definite action of the Home Government can or cannot be criticised here. If that is so, I should like to tell you that it will be in order to criticise it if it is relevant to the matter before this House, not otherwise.

Mr. P. BANERJI: Mr. President, Sir, the Hon'ble Mr. Prentice in introducing the Bengal Public Security Bill has just told us that no circulation is necessary and that perhaps public opinion will be in favour of the Bill. He has also mentioned that there is peace, prosperity and contentment in the country. He has also said that because the Congress has challenged the Government, Government has accepted it. The Hon'ble Mr. Prentice knows very well, if he is a reader of history, that any movement for freedom all over the world is fraught with disobedience of so-called law and order. In this House, times without number, we have pointed out that this country is not being governed by law and order but by lawlessness and disorder. I will only refer to some of the incidents which many of the members of this House perhaps do not know. In the name of law and order, particularly, reference has been made by the mover of the motion to the

district of Midnapore. I can refer to one of the recent cases which happened only on the 24th October, 1932, not even a month ago. One Kumari Bala Patnaik, aged 22, who used to reside at Goalberia with her father near Mahisadal went out in Geonkhali *hat* and asked the people not to use foreign salt and sugar. She was taken to the Mahisadal thana by two constables. Many other persons were also taken along with her to the thana and they were belaboured with *lathis* and before midnight many of them were turned out, but this girl was not allowed to go along with others and she was not let off until all the other men and women had left and she was let out at midnight. She had to cross over a bridge at midnight and near it the constable who arrested her was standing and accosted her saying "where are you going alone, I will take you to a place of safety." She said "I will not go, because, you molested me at the Mahisadal thana. Therefore I will not go" and she took the other direction. What happened afterwards is this. She was forced by the constable Padma and taken to a place near a bamboo grove and there she was ravished and I have got a statement from her and that statement is a very big one. I would challenge the Hon'ble Home Member in respect of this and many other such incidents in the Tamluk subdivision of Midnapore—cases of rape, attempts at rape, arson and loot in the name of law and order.

4-45 p.m.

Recently on the morning of 14th September, you will be surprised to hear that when the house of Mahendranath Pradhan of Chakdipa, police-station Sutahata was set on fire, Mr. E. H. Richardson, I.C.S., Subdivisional Officer of Tamluk, was present. I will give you another instance of how the house of one Bhabataran Paria of Nandigram police-station was similarly treated by the police. On the 19th September, in the presence of the Sub-Inspector of Police, there was wholesale looting of domestic articles in his house; there is also another instance of one Mohendra Jana of Dalimchak in Sutahata police-station, when on the 11th September, on the pretext of realising a punitive tax of Rs. 24-8, a sum of Rs. 3,500 cash and other domestic articles valued at Rs. 525 were taken away. I will give yet another instance of one Prahlad and Birendra Jana being similarly treated. In this case also a cash sum of Rs. 225 and domestic articles valued at about Rs. 500 were taken away. Whenever a receipt was demanded for these things or for the money taken, the result was that they were charged with *lathis*; and in some cases the houses were set on fire and also broken down. I will also give you one recent instance, in which the police occupied the house of Uttami Maity of Khodambari, Nandigram, for three days, from which the men and women had fled immediately on their arrival. They even broke open the roof of the house and about 200 tiles were removed and all the domestic articles valued at Rs. 3,500 destroyed.

They were accompanied by some B. L. case criminals, to whom they made over the booty, and they were asked to take away whatever belongings they could. This is how the state of affairs is going on in Sutahata and Nandigram in the Tamluk subdivision.

The Hon'ble Mr. W. D. R. PRENTICE: May I ask, Sir, whether any complaint regarding any of these cases was made to any local officers?

Mr. P. BANERJI: I would rather tell the Hon'ble Member that it is not possible for these helpless people to bring any case to the notice of the Government.

The Hon'ble Mr. W. D. R. PRENTICE: I am asking, Sir, whether any complaint about any of these cases has ever been made to any of the local officers.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to enlighten me as to who according to him is a local officer?

The Hon'ble Mr. W. D. R. PRENTICE: The District Magistrate, the Subdivisional Officer, the Superintendent of Police, Deputy Superintendent of Police and the Assistant Superintendent of Police, in fact, almost all the gazetted officers in charge of a district. Were any complaints made to any of these officers?

Mr. P. BANERJI: I will just explain to you. The position is that when villagers find that a band of raiders comes to their houses in the name of law and order, namely, Inspectors of Police and Sub-Inspectors of Police accompanied by, in some cases 20 and in some cases even more punitive force, it is also found that this band of raiders as I call them, is headed by the Subdivisional Officer, I have already mentioned the name of Mr. Richardson, I.C.S.

Mr. SHANTI SHEKHARESWAR RAY: Shame, shame.

Mr. PRESIDENT: I might tell Mr. Roy that the word "Shame" is unparliamentary and should not be used within the Chamber.

The Hon'ble Mr. W. D. R. PRENTICE: Mr. Richardson was Additional District Magistrate; there was the District Magistrate, there was the Commissioner of the Division and I again want an answer to my question whether any complaints were at all made about these things to any of these officers.

Mr. PRESIDENT: Mr. Prentice is not asking Mr. Banerji whether any case has been actually instituted against the offending officer; but he wants to know if any complaint against him was made to any local officer of higher rank. But did you not allege that at least on one occasion the Subdivisional Magistrate himself was present?

Mr. P. BANERJI: I have just mentioned that Mr. Richardson was present in the house of Mohendra Prodhan of Sutahata early morning at 7-30, on 14th September, 1932, when his house was set on fire.

The Hon'ble Mr. W. D. R. PRENTICE: Is the member in order in making any allegation against an officer by name? It is absolutely unfair to that officer when he cannot rebut those charges. Neither will the member tell us whether complaints were made to superior officers but he is going on making scandalous allegations against Government officers: Is it permissible for a member to do so, Sir?

Mr. PRESIDENT: If I remember aright it was said on behalf of Government that the Ordinances, or for the matter of that all special measures taken by them, did not lead to any molestation and are not being resented by the people. If I am not mistaken that was the tenor of the speech delivered by the Hon'ble Mr. Prentice, and I thought Mr. Banerji was trying to show that that was not the real case. On the other hand, I think Mr. Prentice is very right when he said that if Mr. Banerji mentioned any particular officer by name he should be able to say whether any complaint was made against him to a superior officer on the spot. In any case, Mr. Banerji must be prepared to make himself responsible for the very serious allegations that he has made or withdraw them. A member of the House is justified in making serious allegations only when he is able to make himself responsible for the same. Will you, Mr. Banerji, tell me definitely whether you are making yourself responsible for the allegations you are making and that it is within your knowledge and belief that your allegations are true? You should also be able to state if complaints were actually made by the aggrieved parties to superior officers who are responsible for seeing that no crime is committed by the punitive police.

The Hon'ble Mr. W. D. R. PRENTICE: I might say, Sir, that realisation of chaukidari tax and other taxes is not done under the Ordinances nor is the punitive police also under the Ordinance. None of these things concern the Ordinance. They are run under the Police Act or the Chaukidari Act that has absolutely nothing to do with special powers at all. The chaukidari panchayati tax is realised under the Chaukidari Act, 1861; there is no punitive police under the Ordinances but additional police can always be appointed under section 16 of the Police Act.

Mr. PRESIDENT: Has the punitive police been stationed there also to deal with the civil disobedience movement?

Mr. P. BANERJI: May I submit certain observations for your consideration to strengthen my case with regard to the allegation? What I beg to submit is that it is a part of the civil disobedience movement. Civil disobedience movement is going on in almost all parts of Midnapore, particularly in Sutahata and Nandigram, and in those places special police has been posted in order to terrorise the people into submission, that is to give up the civil disobedience movement. Another point has been suggested by the Hon'ble Mr. Prentice and that is about law and order. I beg to submit: is this a part of the law and order for these members of police and members of Government to go about in the villages and terrorise the people in the name of law and order? I have given so many definite instances for which I am prepared to accept responsibility——

The Hon'ble Mr. W. D. R. PRENTICE: No, Sir. If it should appear that the conduct of any locality is such as to necessitate an increase of the police force then Government can appoint additional police under the powers given to them under section 16 of the Act of 1861.

Mr. SYAMAPROSAD MOOKERJEE: Has not the President the right to compel Mr. Prentice to answer the question as to whether the punitive police at Midnapore was appointed in connection with the civil disobedience movement? He asked Mr. Prentice this question but no answer was given by him.

The Hon'ble Mr. W. D. R. PRENTICE: I have no knowledge of the fact, because there are other places concerned in the Midnapore district. But my point is that the appointment of punitive police and realisation of rates—these are all done under the ordinary law. The special powers have nothing to do with these complaints.

Mr. PRESIDENT: I had better make the point clear. What I want to know from the Hon'ble Member is whether the punitive force which has been stationed at Midnapore is being employed to check the civil disobedience movement; if so, then, of course the member would be right in making all these allegations. But at the same time, I have already said that Mr. Banerji must make himself responsible for these allegations which are of a serious character.

Mr. P. BANERJI: I have got authentic information and I may add that I am prepared to prove my allegations.

Mr. PRESIDENT: Are you prepared to make yourself responsible for the allegations you are making?

Mr. P. BANERJI: Yes, Sir.

Mr. PRESIDENT: Can the Hon'ble Mr. Prentice give an assurance to this House that punitive police in Midnapore have nothing to do with the civil disobedience movement?

The Hon'ble Mr. W. D. R. PRENTICE: Sir, it is a difficult question to answer. There are provisions in the Police Act under which Government can ordinarily post additional police wherever they thought fit. This reply of mine is all that I can give at the present moment, though I must admit that I cannot answer definitely. I am afraid I shall have to make inquiries before I can give a proper reply.

Mr. PRESIDENT: Can you advance any other argument in favour of your point of order?

The Hon'ble Mr. W. D. R. PRENTICE: No, Sir; not at the present moment.

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. As the Ordinance has been extended to Midnapore, will it not be proper to refer to incidents happening at Midnapore?

Mr. PRESIDENT: My ruling is that Mr. Banerji can make allegations against the punitive police stationed there, because I have not been satisfied with the answer the Hon'ble Mr. Prentice has given on the point. He cannot say definitely that the punitive police are there in connection with any movement other than the civil disobedience movement. The matter before the House cannot be separated from the civil disobedience movement. And since Mr. Banerji has made himself responsible for the allegations he has made, it is only fair that he should be able to make out his case against the Bill before the House in his chosen way.

Mr. P. BANERJI: I submit, Sir, that attempts have been made on Parul Bibi, a Muhammadan lady of Sarinpur.

Mr. PRESIDENT: I suppose you are also prepared to make yourself responsible for the statement you are now going to make.

Mr. P. BANERJI: Yes, Sir.

Mr. PRESIDENT: When the member is prepared to make himself responsible for the serious allegations he wants to make it is only fair that he should be allowed to develop his point.

Maulvi ABUL KASEM: On a point of order, Sir. Is it not a fact that a statement made on the floor of the House is privileged? And any member can make all sorts of allegations, and he is not amenable to any censure?

Mr. PRESIDENT: Such an idea is simply ridiculous. I do not quite understand what you mean, or what your real object is; but, convention demands that in a case like this the Chair must have the member's word of honour that, to his belief and knowledge, the incidents narrated by him are true.

Mr. P. BANERJI: Sir, may I submit one point to you? It is this: the position very lucidly, but I am prepared to take upon myself the responsibility of proving my allegations and bring witnesses forward before any committee—be it composed of either Government members, including the Hon'ble Mr. Prentice himself or the members of the European Association——

(Here the member reached his time-limit.)

Mr. P. BANERJI: Sir, may I submit one point to you? It is this: that I was interrupted during my speech for a pretty long time which ate away the exiguous time allotted to me. Through this process, many a valuable minute has been lost, and I submit to you, Sir, that I am entitled to a few more minutes. (Laughter.)

Mr. PRESIDENT: I am afraid I cannot allow any more time.

Mr. C. P. HOGG: In rising to intervene in this debate, I should like to make it clear that my primary object is to place before the House such knowledge as I may have of the facts which have been mentioned here to-day. But, before doing so, I should like to invite the attention of the House to some facts which have come into increasing prominence in recent years not only in India but elsewhere. Sir, these matters have already been mentioned, to some extent, by Mr. Thompson. In all parts of the world, in all countries, jurists and legislators are being steadily forced to the opinion that law has fallen behind the methods that have been devised to defeat it. A position of stagnation in law is on the same footing as a position of stagnation in any other sphere of business or work. Law must be abreast of the times. Law must be developed and expanded as the methods of defeating it improve; otherwise, the objects of law are defeated. That, Sir, is the position

now in regard to criminal law in this country. It has been urged on Government, and, I think, on very good grounds, that the criminal law at the present moment is unequal to the task of suppressing and putting an end to the elements of disorder that prevail in this province. Therefore, it is the bounden duty of the legislature to see that the law is brought up to date and made an efficient instrument for the suppression of all those forces which are now sapping the foundations of society, and that is why this Bill has been brought before this House for its consideration.

I submit, Sir, that the provisions of this Bill are not antagonistic to the principles of law, and there is nothing in it at variance with the principles of equity and justice. You can also consider it on its merits with due regard to the facts which have induced Government to bring it forward. Now, what are the facts? Let us look at the facts in many districts of the province at the present time. Fortunately, Sir, there are many members in this House who have come here with a wide and deep knowledge of the conditions as they exist throughout the country. They come here, Sir, with first-hand knowledge of the state of affairs, and they are able to form their opinions not on the advice of professional politicians of the metropolis or of the Press, but on their own personal knowledge of what things really are in rural Bengal.

Now, to begin with, Sir, I should like to call your attention to the case of union boards. These boards are the creation of this legislature. They have made considerable progress, and yet we find in many districts in the province that these boards are persistently attacked by agents who are determined to bring them to an end. We have examples in Bankura of union-board members and presidents who have been interfered with in the course of their work when union benches have been sitting for the trial of petty criminal and civil cases. Boys have been sent by one or other of these agencies to interfere with those village litigants who wished to take advantage of these village courts. Then, again, we come to the sub-registration offices which are so common in the *mufassal*. Of all people, surely the sub-registrar is the most inoffensive of officials. I have rarely found any one who could say any thing about the activities of a sub-registrar, but we find that the agencies of disorder have set themselves to interfere with the work of sub-registrars too. In the Midnapore district, to which a reference has been made to-day, mobs of 2,000 to 3,000 people frequently assembled last cold-weather to interrupt public business that was transacted there, and repeatedly Deputy Magistrates had to be sent out from Sadar to preserve peace and protect the unfortunate sub-registrars from these unruly mobs of women and young men who were mere tools in the hands of other people with more cunning brains.

Then, I would remind the House of many occasions on which the work of Government in other spheres has been interfered with. In

many districts, and more particularly in the district of Midnapore, many large crowds assembled week after week to interrupt public business. These crowds were composed of women who normally earn their livelihood by husking paddy. They were supported by youths mostly of the labouring classes, mainly people who depend on agricultural labour for subsistence. These people were organised into parties and gangs to march to the police-station and bait the unfortunate sub-inspector, interrupt his work, and, if possible, take possession of his building. In all these cases, naturally, the officer in charge of the building had to take steps to protect himself. He had to protect the Government property in his charge. He had to preserve his records, and he had to continue to discharge his normal duties in accordance with the responsibility placed on him, and if these crowds had to be dispersed, it would surely have been unreasonable to hold the officer in charge responsible for it. The people really responsible for such a state of affairs are those endowed with brains who instigate from behind these unfortunate youths and thereby create a state of disorder and disturbance in the country which will bring the administration to a standstill.

Now, Sir, even the work of the civil courts has been interfered with. Women and boys have endeavoured to enter the civil court buildings to interrupt the munsif at his work. They have been acting as unfortunate tools of more clever brains. They are acting under the instigation of a large number of agitators and so-called volunteers who are wandering about in West Bengal districts in order to instigate lawlessness and a spirit of civil disobedience.

5-15 p.m.

Sir, a statement has been made to-day of various incidents that occurred in connection with the posting of punitive police in certain parts of Midnapore. I can only say that until very recently, I held the post of the Commissioner of the Burdwan Division. During the past year I have visited both the Tamluk and Contai subdivisions and I had been several times in Midnapore itself. In all those places I have talked with many local villagers and on no occasion have I ever had any complaints of the character which have been made in this House to-day. I would further point out that instances of this kind could never——

Mr. SHANTI SHEKHARESWAR RAY: May I inquire if you were there in October last?

Mr. C. P. HOGG: No, Sir, I am speaking of the time when I was in Burdwan Division—till the 27th of October. I should like to make it clear to the House that officers holding the post of Commissioners

get very regular reports of everything that is happening in each and every district and the district officer has a large number of sources of information. It is not only his own personal knowledge. The district officers are touring regularly. It is within my knowledge that the district officer of Midnapore has recently been in Nandigrám. He went there himself and visited a number of villages where these punitive police are posted and during the course of his tour he had no complaint of the kind to which reference has been made. It may be urged——

Mr. P. BANERJI: Did he hear appeals from the people of the village?

Mr. PRESIDENT: Order. Order. You cannot rise unless Mr. Hogg gives way.

Mr. C. P. HOGG: I was saying, when I was interrupted, that the district officer had been, to my knowledge, in these areas in recent months and from the reports which I had in writing and verbally I can safely say with full confidence that no complaints of the character mentioned were brought to his notice. May I point out that if these irregularities, if these crimes, were being committed by the police, it would have happened during the whole period or at least a considerable part of the period when these police were there? It is hardly credible that this offence could happen only in the last week of October. There would certainly have been an outcry against crime or violence on the part of police posted there, whereas up to the date I left the division they were perfectly peaceful and quiet. It is impossible, I submit to the House, to accept any such charges at the last moment based on instances which are supposed to have taken place during the last few weeks, and regarding which the members of Government or Government officers have no opportunity of making an inquiry. It is unreasonable and unfair. I would further remind the House that it is the bounden duty of Government officers everywhere to carry out the law and to see whether administrative functions are carried out in the manner prescribed by law.

One of the primary functions of collecting *panchayets* is to collect chaukidari tax. In Midnapore we have had a state of affairs in which a large number of people have set themselves to the task of undermining and frustrating the work of the collecting *panchayets*. In these circumstances it was only right and natural that the subdivisional officer, the deputy magistrates and others should make it their duty to assist the *panchayets* in collecting chaukidari tax. Many villagers in Tamluk and Contai subdivisions were induced to adopt the policy of non-payment of taxes and the collecting *panchayets* had to experience

great difficulties in discharging their duties; some of them were beaten, some of them were abused and insulted. There were some cases of incendiarism and in one case the house of an unfortunate collecting *panchayet* was burnt for discharging the duty of a public citizen.

Mr. P. BANERJI: One instance, please.

Mr. C. P. HOGG: I will quote one instance. I shall get the name of the village *panchayet* and give it to the hon'ble member. The district officer himself went out to this area, Nandigram, some short time ago, he visited a number of these villages and found that a number of houses had been vacated in order to evade the payment of taxes. A large number of villagers in that area adopted this device of leaving their houses in order to avoid payment of taxes to the collecting *panchayet*——

(Here the member having reached his time-limit resumed his seat.)

Mr. J. N. GUPTA: In rising to speak on this Bill I very fully realise the heavy responsibility laid on members of this House and particularly on me, who had had the good fortune of being connected with the preservation of law and order for probably a much longer period than most members of Government. Yet, although I have considerable hesitation in supporting members on this side of the House, who have pleaded for some time and for a fuller consideration as to whether the requirements of the case justify a measure of this nature, I feel my conscience is clear.

Before I make any observation I congratulate the Hon'ble the Home Member on the very lucid and clear exposition of the Government case with which he has presented the Bill. There is no difference of opinion between the officers on the other side and us as to the necessity of doing everything in our power to suppress all sources of disruption and disorder, but there is unfortunately a considerable difference of opinion as regards the means which is to be adopted and which according to our judgment will best serve our purpose. On a previous occasion I had to observe that perhaps we were concentrating too much on coercive resources and not resorting to other measures which are equally necessary if our efforts are to meet with permanent success. It is not necessary for me to repeat what I said on that occasion. On the present occasion what we have to consider is whether this Bill is necessary for the purpose of suppressing the civil disobedience movement in Bengal and whether the civil disobedience movement at the present time is of such a nature and of such proportion as to require a Bill of this nature. Mr. Prentice thinks that it is necessary

to have this Bill and that ordinary law is insufficient to grapple with the situation. He goes further. Not only in his opinion is the Bill necessary but he thinks that the public will support a Bill of this nature.

The Hon'ble Mr. W. D. R. PRENTICE: I said some public opinion and not all.

Mr. J. N. GUPTA: Let us hope that the "some public opinion" which he has referred to is public opinion to which we can all subscribe.

(At 5-30 p.m. the Council was adjourned for prayer and it re-assembled at 5-40 p.m.)

Mr. J. N. GUPTA: I was referring to that portion of the Hon'ble Member's speech in which he said that he believed that a very substantial portion of public opinion in this province was in favour of this Bill. I will not dispute that statement, but I would like to draw his attention to the speech made by Mr. Poddar. Mr. Poddar is a *zamindar* and is a man who is interested in a very large business concern. If there is any person who should be able to speak with authority about the measures which Government propose to take against the civil disobedience movement, he is a person like Mr. Poddar. Mr. Prentice did us the honour of saying that so far as co-operating public opinion is concerned the members on this side of the House could speak for them. Here is Mr. Poddar who said that although he has suffered a good deal from the evils of this movement yet he does not consider that any measure passed in the teeth of public opposition will achieve the object which this measure is devised to attain. I would very respectfully draw Mr. Prentice's attention to the opinion expressed by Mr. Poddar as I think it is entitled to great weight.

Now, Sir, I would go at once to the question of the necessity of this measure. Many members on this side of the House believe that although the civil disobedience movement, especially at the beginning, was a serious menace to the province yet it never assumed the same proportions in Bengal as in other parts of India, but now the movement is said to have really died down. So in considering this Bill we must keep these facts in view, namely, that it was never a very serious evil in Bengal like terrorism, for instance, and even though it was certainly an evil of some magnitude before, it may be considered negligible now. The Hon'ble Mr. Prentice has said that Government have been compelled to take up the challenge which has been thrown at them. This is a point which has been discussed all over the country and I will not dilate on that question in this House, but I would say that in a matter

like this Government ought to rise above all sentiments of taking up a challenge or of doing anything just for upholding their prestige. I must emphatically say that in Bengal at least the policy of detaining in jail men, simply because they belong to a party which at one time held civil disobedience to be its chief weapon and who even now have not in theory given up that weapon, is doing a great deal of harm. I would like to point out that to continue to keep confined in jail indefinitely without trial men who held that opinion is not fair. My friend Dr. Naresh Chandra Sen Gupta has said that he believed that by taking measures like this we were doing all that we could to help terrorism. We also believe that terrorism is increasing in Bengal, because terrorism and the civil disobedience movement are being indiscriminately mixed up and men of the position of Mr. J. M. Sen Gupta are being kept in confinement, against whom no shadow of suspicion ever existed of his participation in the terrorist movement and who is held in great esteem by all classes of people, simply on the ground that he is potentially a civil disobedience mover. I would also very emphatically say that by keeping men like Mr Sen Gupta in jail, Government is very seriously handicapping us in organising public opinion to fight terrorism and all other disruptive forces in the country: that is a very signal disadvantage to which I draw the attention of the Government. Of course the Hon'ble Mr. Prentice must realise that if extraordinary powers are given to the police and subordinate officers, no matter how strict we are, cases of the nature to which a reference has been made by my friend on the left must occur. I do not say that all the instances he has quoted are true. From my own experience I know that the outside public are apt to exaggerate and even to distort facts in such cases. But on the other hand having had very large experience as an executive officer I must point out that because certain informations have not reached the officials it is not to be argued that such complaints are incorrect or the facts on which they are supposed to be based are incorrect. It is the experience of every officer who has moved in the districts as extensively as I have or the Hon'ble Mr. Prentice or Mr. Hogg have that many cases of real great hardship never reach our ears. But judging from the fact that these powers are to be entrusted to low paid servants who are open to all kinds of temptation, it is only natural that they may be led to excesses and, therefore, the less we arm them with powers of this nature, the better. Although I am prepared to lend unqualified support to measures dealing with terrorism, I reserve my judgment on the taking of such extraordinary powers as are proposed in this Bill for fighting civil disobedience in Bengal. The Hon'ble Mr. Prentice has said that it is not only for the present Government that he is fighting but also for the Government of the future. If the Government of the future is to be placed in the hands of gentlemen who will hold views similar to those held on this side of the House, I think you

can take it from me that your labours on behalf of that future Government will not at all be appreciated. I would therefore strongly urge that great caution and a very careful examination of all the facts of the case will be necessary before the Government and the Hon'ble Member proceed with this Bill.

Babu JATINDRA NATH BASU: Mr. President, Sir, in considering this measure we should not lose sight of one important fact. The kind of public movement which this measure is intended to deal with has been in existence for over quarter of a century and Government has passed measure after measure commencing from 1908 onwards. Those measures have been passed by the legislature in some cases in spite of opposition. What has been the result? Those of us who lived in days when there was not this movement, on the one hand, nor this particular kind of legislation on the other, know and feel that this particular kind of movement in spite of special measures has spread wider and gone deeper. Every one feels and knows it. Have these measures at all succeeded? I do not for one moment minimise the difficulties of Government but the weapon with which they want to deal with this kind of trouble is probably not the proper weapon with which to achieve the object in view. I believe the entire orientation should be different. It requires a much broader statesmanship than small measures like this to deal with the situation. I am almost inclined to say that this kind of legislation is mere tinkering. It shows want of a broad outlook over the past. If the kind of bold statesmanship that guided Lord Canning in the days of the Sepoy Mutiny and in the days that followed immediately thereafter and which consolidated good feelings on which British and Indian trade flourished for nearly half a century, if that spirit guided the Government of the present day the result would have been different. But I find to-day there is a different kind of spirit. Small measures are brought forward to deal with troubles instead of attempts being made to grasp at the real mischief. Therefore I cannot lend my support to this measure.

Dr. AMULYA RATAN GHOSE: Mr. President, Sir, I rise to oppose this Bill. By doing so I would first say that public opinion is well known to the Government, probably of a very small section of the people and that section certainly is the official section which is very much bent upon having a legislation like this. Sir, the public do not want this sort of drastic laws for the checking of this movement. What the public want and we have said times without number is that the causes of such movements have got to be eradicated and unless these are tackled properly the movement will not go. Repression or any strong policy on the part of Government may for the time being do so and lead people to think that the movement has died down but in fact in stead of non-violent and harmless movement much graver and serious things are happening, the root cause of the terrorist movement in Bengal is nothing but the

enactment of such Bills. Sir, if we remember aright, the statements made by some of these terrorists in the law courts show that the strong measures and repressive laws have driven the people to take to terrorist activities. Sir, this is a matter for deep thinking whether the movement which is non-violent in character and action should be put down by violent measures adopted by the Government.

6 p.m.

Sir, the Hon'ble Home Member has said that a challenge has been thrown out to the Government and Government has accepted that challenge. Much heroics was shown when he said this. But I do not really understand how a challenge could be thrown out by the people against a powerful Government and I cannot understand how such measures can produce any good effect upon these non-violent people. A challenge, as far as I know, can only be thrown out by people who are equally powerful and only to those who are strong enough to accept that challenge. I do not understand how a challenge could be thrown out by a set of non-violent people of the country who carry on their policy by non-violent means—who pursue their activities by means of pursuasion and entreaties—requesting the people at large to do certain things and not to do certain things. If that is their method I do not know how they can throw out any challenge to the mighty British Government. Really, Sir, it looks ridiculous in the eyes of the people that to fight out a movement like this the mighty British Government think that they should accept a challenge thrown out by the non-violent people, who have not any other weapon than pursuasion—who have not got any other weapon to attain their object than suffering and courting imprisonment —who even do not care to defend themselves in law courts, and who do not think it necessary on their part to express their grievances and complaints to the officers of Government. It is certainly ridiculous if, in dealing with such a movement the mighty Government enact these repressive measures; moreover, the way in which these measures are carried into effect by the officers of Government is more ridiculous. Imagine for a moment the spectacle in the streets that as soon as a group of 4 or 5 or 6 weak and lean young men—some of them shouting some slogans and some carrying a national flag are seen on the streets a contingent of police numbering no less than 20 or 25 run after them to take them to the thana! Even if they are asked by a single police constable to accompany him to the police-station they will quietly follow him: is not it a ridiculous exhibition of nervousness to employ so many policemen for arresting few boys? This has been their practice and is still their practice. It really looks ridiculous in the eyes of the people who really believe in brave acts, to treat them in this way! Then, Sir, the way in which the police and the officers of Government try to stop this movement is more objectionable than the law itself.

In the Howrah municipal office building there was a national flag on the top flying for a very long time. At first nobody took any notice of its presence. But some time after the ordinances were put into action some policemen got inside the building: they found the building locked up, so what they did was to remove by some means the wire-netting by the side of the staircase of the building and thus got in and removed the flag from the roof thereof. Then there were cases of non-violent young men and girls being beaten seriously by the police, so much so, that they had to be removed to the hospital for treatment. Their limbs were injured even for saying *Bandemataram*. These things tell seriously upon the minds not only of those people who actually take part in this non-violent movement but even upon those who are not at all interested in this movement when boys are mercilessly beaten by the police.

Sir, when my friend Mr. Banerji was making certain allegations he was met by volleys of questions and one of them was whether any complaints had been made to the superior officers with regard to them. Sir, it is common knowledge that when a man is so treated by an officer of Government and goes to lodge a complaint against him to his superior officer he is driven out and most shabbily treated which means adding insult to injury, that is why the people do not think it worth their while to go to the superior officers and lodge a complaint. Moreover, it is not possible for an ordinary village folk to muster courage to go to the mighty Divisional Commissioner or the District Magistrate with certain complaints against his subordinate officers. These, Sir, are all practical sides of the thing. Then, Sir, according to Government itself the weapon is not very desirable either, as will be seen from the Statement of Objects and Reasons. If that is the case and if, as is now held by Government itself, the civil disobedience movement has been checked and killed, and if it is on its last legs, I do not see any reason for the enactment of this Bill. If it is dead and gone what is the necessity of flogging a dead horse? Let it remain as it is: what is the use of reviving a law which has already done its work and when Government itself is not so insistent on retaining such a weapon for the maintenance of law and order as it did before? Sir, with these words I oppose the Bill.

Nawab MUSHARRUF HOSSAIN, Khan Bahadur: I have heard with patience the speeches that have been delivered on both sides of the House—both by the officials and the non-officials. The House knows that so far as we are concerned we can view these things dispassionately. But on the whole, so far the only discordant speech has come from my friend Mr. P. Banerji, and the rest had to tell only one tale. The purport of practically all the speeches was: why have a Bill like this when you could strike at the root of the whole thing by making peace with the Congress? That is probably the purport of the speeches that have been delivered on this side of the House. It may be that when they were

speaking they were not able to express themselves properly and they may perhaps have meant to conceal their minds. But so far as I understand, if peace is sought it can be had for the mere asking. Now, the question is: Who is to ask for this peace—whether the victors or the vanquished? I, on my own part, would however ask the victors to ask for this peace, for that would be very fair. I do not think that the policy that is now being pursued by the Government of India can be supported by any right-thinking man. If peace can be obtained, why not have it? Why do you simply waste your energy and resources and continue the fight when, to all intents and purposes it has already been won? I think I am right in expressing this feeling. Unfortunately the real representatives of the Congress are not in this House but there are many of their sympathisers here. If I am wrong I may be told that I am wrong in my estimate of the state of affairs. Let us now shake hands and establish peace in the country. What harm is there if that is done? Why do you say that unless the other party sues for peace, we are not going to ask for it? On the other hand, I would rather say that this is nothing but a matter of sentiment. Why should, in such big affairs, sentiment be allowed to play its part? We, who are mere onlookers, know it full well that practically the war with the Government is over, that we are all now longing for peace, and that we want it as early as possible. If we had come to a compromise by this time, and if the Hon'ble Mr. Prentice had accepted it, then there would have been an end of all these troubles, and the necessity for bringing forward this Bill would have disappeared long ago.

Sir, I must say that this Bill is an off-shoot of the civil disobedience movement. As the civil disobedience movement is now practically dead, let us now make peace. I think it would be most honourable for Mr. Gandhi and others of his party to say so, but this has not been done by the Congress. I suggest, as an onlooker from outside, that as the war is over, it behoves the Congress to seek peace. Let us come to some understanding and have peace in the country.

Maulvi ABUL KASEM: I have listened, Sir, with attention and interest to the admirable speech of my friend, Dr. Naresh Chandra Sen Gupta, and, I hope, Sir, the Treasury Benches have heard it with profit as well. Sir, I agree with him when he said just now that the methods adopted by Government have not been very successful for the purpose of the eradication of the evil, in spite of the fact that for some time past we have given the Government such powers as they demanded, and what is more important, we have given them as much money as they wanted for this purpose. But, with what result? The methods adopted by Government and the steps taken by them have been only partially successful. It may, to some extent, have suppressed the outward expression of the revolutionary movement, but it has so long failed to eradicate the evil and to root it out. But, Sir, in spite of the remarks

to the contrary of my friends on my right (refers to the opposition ists), I am definitely of opinion that the time has not yet come, when we can, with a sense of safety, reject this Government measure. I shall, therefore, support it.

Sir, it appears to me that my friends on my right as well as my friends on my left are both equally anxious that the civil disobedience movement should be called off, and I, for the matter of that, make no distinction between it and its other offshoot, *viz.*, the revolutionary movement. So far as the civil disobedience movement, terrorism, or anarchism—in whatever form they have manifested themselves—are concerned, they have created a sense of insecurity in the public mind in this province. Ordinary business is interfered with everywhere. We have heard a great deal from my friends about the non-violent methods adopted by Congress, but these non-violent methods consist mainly of intimidation and terrorism in the land. Sir, to speak out honestly, the Penal Code and the other enactments of Government have, to some extent, interfered with our liberty; but terrorism has practically suppressed the expression of public opinion in this country. Sir, on the one hand, there are Ordinances and other measures of Government which, no doubt, are characterised as lawless laws, and on the other hand, there are illegal forces and threats, which also interfere with the liberty of the people. We have been told that our friends only practise peaceful persuasion in certain matters, but those, who know the facts and have personal experience, must agree with me that the form this peaceful persuasion takes is not at all peaceful but violent. My esteemed friend, Mr. B. C. Chatterjee, a lawyer as he is, has summed up all our grievances. In his opinion, the transfer of law and order to the people would bring back the normal situation; but in my opinion, and that opinion, I think, is shared by many of my countrymen, terrorism, anarchism, and civil disobedience, all these movements are carried on by persons who, I submit, are not at all interested in the peaceful advancement of the country. Their object is to create disturbance and chaos in the land. If by the transference of power to the legislature there is peace and contentment in the land, then Othello's occupation is gone. But, at the same time, I submit, Sir, Government have had ample opportunity to suppress this movement, and their failure to do so shows their incompetence to govern. I am afraid, Sir, the Government is bankrupt of statesmanship. If they cannot find the proper means of bringing about peace and orderliness in the land and to remove disorder and lawlessness, they have no justification whatsoever for their existence. Sir, the reason why the British Government was popular in this country, is that they established peace and brought prosperity in the land. If that peace is disturbed, and if Government is not able to cope with disruptive elements—I am not talking about war and challenges and counter-challenges—if, as an ordinary citizen, my liberty is interfered with, if

I am not allowed to have free speech and do as I like to, if I am interfered with in every affair of mine, if I find that business is at a standstill, and Government are not taking any notice of these things, I must say that Government have lost all justification for their existence.

Sir, the agricultural population of this province who, to speak the honest truth, are the producers of wealth and the paymasters of the Treasury Benches, are in a miserable plight. There is almost a famine in the land in spite of plenty of produce and of protection from intimidation, and all that. It is so, because our trade and commerce is absolutely at a standstill. Therefore, Sir, I think that the Government owes it to itself and owes it to the public at large, to give an explanation as to why they have failed.

Sir, the thing is that there is a revolutionary movement in the land; at any rate, I make bold to say, engineered by interested persons, because I cannot believe that patriots can come forward who have an honest faith in the methods that have been adopted by them for the attainment of independence or self-government. With regard to Mr. Chatterjee's advice to the Treasury Benches to transfer law and order to a popular Minister, I may cite the example of the Irish Free State. There, terrorism and the anarchist movement did not cease with the transference of power to the Free State, but it ceased when the Free State actually took steps to stop it. What these measures were, everybody in this House knows. I think, Sir, that that is the only method which Mr. Chatterjee, as the Prime Minister of Bengal, would have to adopt for the eradication of anarchism after attaining self-government.

Before I sit down, Sir, I should like to make one more remark on the speech of my friend Mr. P. Banerji. He has made certain allegations against officials. I have nothing to do with that, because I know the officials are strong enough to defend themselves. But in regard to one particular case he said that Mr. Richardson, the Subdivisional Officer of Tamluk, set fire to a hut. I have been to the interior of Tamluk very recently, and I met some of the local people both at Tamluk and in the interior tracts of the subdivision, and the story I was told of the incident was that, no doubt, certain police officers and Mr. Richardson went to a particular village, and it was also true that a house was set fire to—a portion of a hut, call it a cow-shed or a kitchen—I do not know what it was, was set fire to—either by the picketers or by some people in the neighbourhood of the householder concerned, in order to make up a case against the officers of Government. I am sorry, Sir——

Mr. P. BANERJI: May I offer a personal explanation, Sir? I never said that Mr. Richardson set fire to the house, but what I said was that Mr. Richardson was present at the place when the house was set fire to.

Maulvi ABUL KASEM: Mr. Richardson is a very young man, and one of the few British officials in the province who can venture to go through the interior of this subdivision which is a hotbed of revolutionary movement, and I think it was wrong on the part of my friend to make such allegations against that gentleman.

I support Government in their motion for referring the Bill to a Select Committee, and I hope and trust that Government will withdraw all these lawless laws as early as possible and take effective measures in the meantime to deal with all revolutionary movements in the province, and thus allow the people to carry on their normal avocations peacefully and without interference either by Government or by the Congress.

Mr. R. N. REID: I may be biased, though after Mr. Chatterjee's kindly reference to the spiritual and moral adaptability of the Indian Civil Service, I am inclined to think that I might plead not guilty to that charge, but I feel that after listening to the speeches to-day, one gets an impression that though many of these speeches were directed against the principles of this Bill, yet there was a great deal in them which indicated, to my mind, very clearly that there was a real necessity for this Bill.

6-15 p.m.

We have for instance the authority of no less an individual than Mr. Banerji himself, that civil disobedience is flourishing and is rampant in the Midnapore district. If that is the position in the present day is the Government not justified in taking recourse to this measure to deal not only with a possible recrudescence of civil disobedience but with a movement that is in existence already—as Mr. Banerji has pointed out civil disobedience is flourishing, and is rampant in that district? While I am dealing with Mr. Banerji I should like to add my protest, against the allegations which were made by him in this House to-day. Those allegations, I hold, are grossly unfair. As has been said already, these allegations are made against officers who are not in a position to defend themselves and are uttered at a time when Government, owing to a procedure Mr. Banerji has adopted, are not in a position to refute them by chapter and verse. I may add that yesterday the member who has made these allegations came to me and informed me that these statements had been made against certain officers. I said if he would give me the dates and names of the places and other information which he said he was prepared to give I would certainly see that inquiries were made. Instead of waiting for the inquiry——

Mr. P. BANERJI: That was with reference to the adjournment motion and had nothing to do with this Bill.

Mr. R. N. REID: I suggest that that is a distinction without a difference. The allegation was there and it makes no difference whatever that there was some possibility of a motion being made for adjournment of the House.

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Member entitled to make any reference to a personal interview in his office?

Mr. PRESIDENT: There is absolutely no harm in his doing so. The point that Mr. Reid was trying to make out was that in spite of the fact that he assured the member that he would make inquiries, he thought it fit not to wait and make these allegations.

Mr. R. N. REID: My point is that the procedure adopted by the member was not reasonable and not fair. Beyond that I have nothing further to say. I leave it to the sense of the House.

As has been pointed out on two or three occasions this afternoon the member takes the responsibility for everything he says but that responsibility does not carry with it any liability whatever. Some indication of the value of at least one of these allegations is to be found in the speech of Maulvi Abul Kasem.

Mr. B. C. Chatterjee tried to make our flesh creep with his conception of the genesis of this Bill.

Mr. PRESIDENT: Mr. Chatterjee, why are you scratching your head?

Mr. R. N. REID: Perhaps he was attempting to make our hair stand on end. He read into the introduction of this Bill a deep Machiavellian plot of the Home Government and he said this Bill was the harbinger of evil. Anyhow his idea was that the so-called reforms which will be worked out at the final Round Table Conference will be worthless and there is going to be a disappointment in India, so Government must be prepared with fresh repressive measures in order to meet the disappointment in the country, and the action of those who will no doubt express their disappointment in an unconstitutional way. So far as this Government is concerned there is no foundation whatsoever for his foreboding.

Mr. B. C. CHATTERJEE: Can the Hon'ble Member give us an assurance that we are going to get real reforms?

Mr. R. N. REID: He very well knows that I am not in a position to say that. We were treated to a considerable dose of Dr. Naresh Sen Gupta's usual defeatist eloquence. He said all our measures were useless

and had failed and he asked us to try some other way. As usual that "other way" has not been explained. Dr. Naresh Chandra Sen Gupta, I think, must be one of the sort of men who would go for a walk in some jungly place, possibly with his gun, and supposing he met some wild animal he would not attempt to destroy it in order to save himself but he would say "No, if I attempt to harm this dangerous animal, it may irritate him, it may cause him to lose its temper" and so he would take no measures to save himself, yet the chances are that he would lose his own life. That is the advice he would give Government and I submit that no Government, whether it is the autocratic government that Mr. B. C. Chatterjee would have us believe exists to-day, or the democratic Government of the future can accept. As has been pointed out before if this Bill is passed it will be a legislation not merely for the present but for the future government too. If, as so many hope and as so many of us in this House apparently believe, the transfer of subjects from Government to the hands of the elected people results in a millennium then nobody would be more pleased than Government itself and these repressive laws would be merely a dead-letter. As things stand at present special emergencies require us to have special powers. There is no question about this. This Bill is intended to be a precautionary measure. Everybody in this House has no doubt read the Preamble of the Bill and the first clause which make the intention of Government perfectly clear.

Mr. Thompson has called this Bill "a mouse". I am not going to defend this Bill on the score of its smallness or weakness or anything of that sort. It is small—and if it had been a big one, I think, Mr. Thompson would have been the first to complain that the length of the Bill was prolonging the proceedings of the session—it is small partly because the Government of India, as we all know, are legislating on a great many subjects which find a place in the existing Ordinances and, secondly, because Government decided to include in this Bill the minimum power that is considered necessary to deal with the possible evil of civil disobedience or other such subversive movement. It is a Bill that, I think, meets the case and it contains in it as much as is needed to meet any possible contingency that is contemplated.

One other small point before I sit down. Dr. Ghose of Howrah laid great stress on the non-violent aspect of the civil disobedience movement. I wonder if he ever heard of a *chaprassi* of the Howrah Municipality, a poor man, lowly paid, who lost his job during the civil disobedience movement, and he lost it in this way for doing his duty. An examination was being held in the Howrah Municipal Town Hall and in that connection I do not know whether they were qualified to sit for the examination or they were actuated by motives of patriotism—some young men tried to get through the gate and make their way into the Hall and made a noise there. The municipal *chaprassi*, who was on

duty then, tried to prevent these people from entering the Town Hall in which he was an humble employee. They tried to force their way in and he in turn had to use force to prevent them in order to do his duty. That I think can hardly be quoted as an instance of non-violence of the civil disobedience movement.

Dr. AMULYA RATAN GHOSE: The *chaprasi* was dismissed for breaking heads and not for driving those people away.

Mr. R. N. REID: One more point. Nawab Musharruf Hossain referred to the possibility of peace which I think every one in this House will admit is a very attractive prospect but I doubt if at present there is any much hope, of the parties coming together so as to put an end to all the troubles that have been harassing us so long. At present I do not think it can be fairly said that from the other side there has been any great gesture indicating that the other side is prepared to come and shake hands with us. Mr. Gandhi, as far as I know, has not openly declared that he is in favour of giving up his creed of civil disobedience nor has he privately indicated that he has given it up. If he, the protagonist of the civil disobedience movement, has not given up his creed it can hardly be expected that the "small fry" will give it up. I need hardly say if there be the slightest indication, the slightest gesture, of their giving it up then Government will not be slow to come forward and accept it.

Dr. NARESH CHANDRA SEN GUPTA: Mr. Reid has done me great injustice in thinking that in what I said I intended that the Government would accept my proposal.

Mr. C. C. COOPER: I move that the question be now put.

Mr. PRESIDENT: There are, it appears, one or two other members who want to speak on the subject and I think I must give them an opportunity before I put the motion.

6-45 p.m.

Khan Bahadur Maulvi AZIZUL HAQUE: Mr. President, Sir, I know that the time has come when somebody should move for a closure and I think it is time for moving for a closure. I have nothing to say as regards this Bill except on one or two points. It is a very important measure and none of us has tried to find out the reasons why this Bill should be supported or not. Sir, unfortunately certain discussions have been raised as to whether there has been violation of the law—either of the common law or of any specific law. The question at issue is whether there is civil disobedience in the country or not. As regards civil disobedience it has nothing to do with the political aspect. It is

really the interference with the economic condition of the country which has come into being. We know in certain cases the nature of the civil disobedience movement. Taking the worst view the fact is that this civil disobedience movement has come to interfere with the ordinary activities of the citizens. I would not have supported this Bill at all if I were not really convinced that there have been certain cases in which attempts have been made to bring the union boards within the arena of the civil disobedience movement. From my experience into the working of the union boards I feel that if it is possible for us to do anything towards the village reconstruction in Bengal it should be through the agency of the union boards. That being so I am surprised to find that the civil disobedience movement is trying to hamper the activities of the union boards towards village construction. I feel that this movement would stop its activities. I must make it clear that we, on this side of the House, have absolutely no sympathy with any case where the law is misapplied. It is the duty of every Government as well as the citizens in the interests of good Government of the country that a proper inquiry should be made before any action is taken. I must agree with Mr. Reid that Mr. Banerji should not have referred to those allegations without making a proper inquiry. In any case I feel that this is a law the necessity of which is such that we have no other alternative but to accept it. I personally do not agree with some of the provisions of the Bill, but that is a question of detail which may be considered by the Select Committee. In the circumstances I think we have no other alternative but to support this motion for reference to the Select Committee.

Mr. P. BANERJI: On a point of personal explanation, Sir. Mr. Reid has just said that I was very unfair in referring to the incidents at Midnapore without making any inquiry. I say that Mr. Reid does not know the facts.

Mr. PRESIDENT: I am now going to put Mr. Cooper's motion that the question be now put.

The motion that the question be now put was put and agreed to.

The motion that the Bill be circulated for the purpose of eliciting public opinion thereon by the 28th February, 1933, was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nurul Absar.
Ghose, Dr. Amulya Ratan.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprasad.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hanuman Prasad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hoseni.
Roy, Babu Haribansa.
Roy Choudhuri, Babu Hem Chandra.
Samad, Maulvi Abdus.

NOES.

Ali, Maulvi Syed Nausher.
Armstrong, Mr. W. L.
Baksh, Maulvi Shaik Rahim.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Burn, Mr. H. N.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhury, Hajl Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Forrester, Mr. J. Campbell.
Gangali, Rai Bahadur Sushi Kumar.
Ghose, Rai Bahadur Saseuka Comar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Griebrist, Mr. R. N.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hogg, Mr. G. P.
Hosain, Nawab Musharruf, Khan Bahadur.
Hussain, Maulvi Latafat.
Hooper, Mr. G. C.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Lesson, Mr. G. W.
Maguire, Mr. L. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mortimer, Mr. H. R.
Nag, Reverend S. A.
Nandy, Maharaja Sris Chandra, of Kasim bazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Petre, Mr. S. F.
Philpot, Mr. H. G. V.
Prentice, the Hon'ble Mr. W. G. R.
Quasem, Maulvi Abul.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray Chowdhury, Mr. K. G.
Reid, the Hon'ble Mr. R. N.
Rose, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

Ayes being 17 and Noes 66 the motion was lost.

The motion that the Bill be referred to a Select Committee was then put and agreed to.

The following motions were called but not moved:—

Mr. ANANDA MOHAN PODDAR to move that after the name of Mr. R. N. Reid, the following names be inserted, namely:—

Mr. B. C. Chatterjee,

Mr. J. N. Gupta, C.I.E., M.B.E.,

Mr. Syama Prosad Mookerjee, and

Mr. S. M. Bose.

Babu KHETTER MOHAN RAY to move that after the name of Mr. R. N. Reid the following names be inserted, namely:—

Mr. Ananda Mohan Poddar,

Mr. Syamaprosad Mookerjee, and

Babu Khetter Mohan Ray.

Haji BADI AHMED CHOWDHURY to move that after the name of Mr. R. N. Reid the following names be inserted, namely:—

Maulvi Tamizuddin Khan,

Mr. A. K. Fazl-ul Huq, and

Haji Badi Ahmed Chowdhury.

Dr. AMULYA RATAN GHOSE to move that after the name of Mr. R. N. Reid the following names be inserted, namely:—

Dr. Naresh Chandra Sen Gupta,

Mr. B. C. Chatterjee,

Mr. R. Maiti, and

Mr. Ananda Mohan Poddar,

and for the word "week" in the motion relating to the time by which the report is to be submitted the word "month" be substituted.

Maulvi ABDUL HAMID SHAH to move that after the name of Mr. R. N. Reid, the following names be inserted, namely:—

Mr. Nareudra Kumar Basu,

Dr. Naresh Chandra Sen Gupta,

Babu Satish Chandra Ray Chowdhury,

Maulvi Syed Nausher Ali,

Maulvi Hasan Ali, and

Maulvi Abdul Hamid Shah.

The motion that the Bill be referred to a Select Committee consisting of—

(*1*) **Reverend B. A. Nag,**

(*2*) **Khan Bahadur Maulvi Azizul Haque,**

(*3*) **Rai Sahib Sarat Chandra Bal,**

(*4*) **Babu Jitendralal Bannerjee,**

(*5*) **Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,**

(*6*) **Rai Bahadur Ramini Kumar Das,**

(*7*) **Mr. W. H. Thompson,**

(*8*) **Maulvi Abul Kasem,**

(*9*) **Khan Bahadur Maulvi Muhammad Abdul Momin,**

(*10*) **Mr. R. N. Reid, and**

(*11*) **The Hon'ble Mr. W. D. R. Prentice,**

with instruction to submit their report within one week from the date on which this motion is carried in Council and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

was then put and agreed to.

Adjournment.

It being 7 p.m. the Council was then adjourned till 3 p.m., on Thursday, the 24th November, 1932, at the Council House, Calcutta, without question put

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 24th November, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, three Hon'ble Members of the Executive Council (the Hon'ble Mr. W. D. R. Prentice, C.I.E., I.C.S., being absent), the three Hon'ble Ministers and 103 nominated and elected members.

Oath or affirmation.

The following member made an oath or affirmation of his allegiance to the Crown:—

Mr. G. A. Mason.

STARRED QUESTIONS

(to which oral answers were given)

Visitors of Special Jails.

*17. **Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether any member of the Legislative Assembly representing Bengal is a visitor of any jail in Bengal?

(*b*) If the answer to (*a*) is in the negative, are the Government considering the advisability of appointing such members as visitors of Bengal jails?

(*c*) Did any member of the Legislative Assembly offer his services as such visitor?

(*d*) If so, has such offer been accepted or rejected?

(*e*) Are the Government considering the desirability of appointing a number of M.L.A.'s and M.L.C.'s as visitors of the Special Jails at Dum-Dum, Berhampore and Hijli in consideration of the personnel of the prisoners of these jails?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) No.

(*b*) As under Jail Code rule 63 (2), members of the Legislative Assembly are eligible for appointment, Government do not consider it necessary to increase the number of visitors by specially nominating them as jail visitors.

(*c*) Yes.

(*d*) The offer was not accepted.

(*e*) As to M.L.A.'s *vide* answer to question (*b*). As to M.L.C.'s there are already two as visitors of the three Special Jails at Dum-Dum. The question of including M.L.C.'s as visitors of the Berhampore and the Hijli Special Jails is under consideration.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state with reference to (*b*) why that offer was not accepted?

The Hon'ble Sir PROVASH CHUNDER MITTER: Because members of the local Legislative Council are presumably more concerned with local affairs than members of the Legislative Assembly.

Sundarbans Landholders' Association.

***18. Mr. SURENDRA NATH LAW:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a list of the recognised associations within the Presidency Division, stating their numerical strength, importance and other grounds qualifying them for the recognition?

(*b*) Is the Hon'ble Member aware of the existence of a Landholders' Association in Calcutta under the name and style of the Sundarbans Landholders' Association?

(*c*) Is it a fact that the said Sundarbans Landholders' Association has applied to the Government for recognition?

(*d*) If so, when was such application received by the Government?

(*e*) Has the said application been disposed of?

(*f*) If it has not been disposed of as yet, will the Hon'ble Member be pleased to state the reasons for the delay?

CHIEF SECRETARY to GOVERNMENT (Mr. R. N. Reid): (*a*) The list referred to in the question is part of a provincial list which is maintained for official use only.

(*b*) and (*c*) Yes.

(*d*) The 3rd June, 1932.

(*e*) No.

(*f*) Necessary enquiries have not yet been completed.

Goalundo Ghat.

*18. **Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether any materials (rails, slippers, etc.) are kept in reserve for the shifting of the Goalundo Ghat in emergency?

(*b*) If so, materials sufficient for how many miles of new construction are kept in stock and where?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) Yes.

(*b*) The quantity and position of such material kept in reserve vary with the condition and sites of the *ghats*. At present 3·2 track miles of materials for new construction are kept at Rajbari and the *ghat* sites.

Hardinge Bridge.

*20. **Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether any bridge charge is levied on passengers and goods carried by rail across the Hardinge Bridge?

(*b*) If so, will the Hon'ble Member be pleased to state—

(*i*) why is this charge levied;

(*ii*) what is the rate at which the charge is levied on passengers, goods, etc.;

(*iii*) from what date the levy commenced;

(*iv*) how long is it intended to continue the same;

(*v*) what is the total amount hitherto realised on account of this charge; and

(*vi*) what was the amount realised each year on account of such levy on passengers, goods, etc., during the last five years for which figures are available?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) Yes.

(*b*) (*i*) A special rate over this expensive section of the line is obviously justified and the method adopted of assuming a hypothetical increase in distance is that usually adopted in such cases.

(*ii*) The charge is levied by adding a "pontage charge" as for 18 miles to the actual distance for charge between the stations on either side of the bridge, *viz.*, Bhairamara and Paksey.

(*iii*) Since the opening of the bridge in 1915.

(*iv*) It cannot at present be stated if, or when, this charge will be modified or withdrawn.

(*c*) No separate accounts are maintained by the Railway authorities from which it would be possible to evaluate the amount that has been collected up to date by the extra charge.

(*ci*) The required figures for five years are not immediately available, but a special investigation in 1929 showed that the earnings from the extra charge had, for the past 4 years, averaged approximately 19 lakhs per annum, while the interest, maintenance and depreciation charges of the bridge were Rs. 21¼ lakhs annually

Muhammadan holidays.

*21. **Maulvi TAMIZUDDIN KHAN:** (*a*) With reference to the reply given to starred question No. 22 at the Council meeting held on the 8th August, 1932, will the Hon'ble Member in charge of the Finance Department be pleased to state whether any decision has been arrived at on the question of allotting certain non-Act holidays to Muslim religious festivals?

(*b*) If so, what is the decision?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) and (*b*) Government tentatively propose to allow three local holidays for Muhammadan festivals in each district and are consulting local officers on the subject.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether the holidays will be awarded next year?

The Hon'ble Mr. J. A. WOODHEAD: I hope so.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state whether the holidays proposed to be allowed will be in addition to the local holidays already on the list or be curtailed from the holidays already allowed to the other communities?

The Hon'ble Mr. J. A. WOODHEAD: If it is possible to allow these holidays without curtailing the holidays allowed to other communities, that will be done.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Member be pleased to state which are the holidays to which the three days are proposed to be allotted?

The Hon'ble Mr. J. A. WOODHEAD: The three holidays proposed are—

One for Fatiha Duwazdaham.

One for Shab-i-barat.

One for Muharram.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Member be pleased to state whether the question of allotting certain non-Act holidays is still under consideration?

The Hon'ble Mr. J. A. WOODHEAD: Local holidays are for all practical purposes the same as non-Act holidays.

Maulvi TAMIZUDDIN KHAN: I mean executive holidays which are non-Act holidays.

The Hon'ble Mr. J. A. WOODHEAD: There is no practical difference between local and executive holidays.

Process-servers.

***22. Kazi EMDADUL HOQUE:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether any action has been taken on the resolutions passed at the twelfth session of the Bengal Process-Servers' Annual Conference held at Barisal?

(*b*) If so, was it communicated to the Process-Servers' Association?

SECRETARY to GOVERNMENT, JUDICIAL DEPARTMENT (Mr. A. C. R. Henderson): (*a*) Yes, wherever action appeared to Government to be called for and feasible.

(*b*) A letter on the subject has issued to the association.

Kazi EMDADUL HOQUE: With reference to answer (*a*), will Mr. Henderson be pleased to state what action has been taken by Government on the resolution referred to in the question?

Mr. A. C. R. HENDERSON: If he wants to know of any specific action, I want notice.

Kazi EMDADUL HOQUE: Will Mr. Henderson be pleased to state when the letter referred to in answer (*b*) was issued to the association?

Mr. A. C. R. HENDERSON: I want notice.

Mr. SHANTI SHEKHAREswar RAY: Will Mr. Henderson be pleased to state if the present question is not a sufficient notice?

Mr. PRESIDENT: I do not allow that question.

3-15 p.m.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state what action has been considered feasible?

Mr. A. C. R. HENDERSON: I have nothing further to add to my reply.

Process-servers' badges.

***23. Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware

(*i*) that in some districts a new type of small badge with inscription "Process-server" has been introduced by the District Judges for the use of process-servers; and

(*ii*) that these badges stood the test of more than five years without any complaint from any quarter?

(*b*) Are the Government considering the desirability of introducing the said type of badges in all the districts?

Mr. A. C. R. HENDERSON: (*a*) (*i*) Badges came into use in some districts, but Government are not aware whether the previous sanction of the District Judge was taken in every case.

(*a*) (*ii*) and (*b*) This is not the fact. On the contrary Government are considering whether such badges should not be abolished, where they are in use.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Process-servers.

5. Maulvi ABDUL HAMID SHAH: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that the Registrar of the Calcutta High Court (Appellate Side) conveyed his decision on the question of granting regular travelling allowances to process-servers, by a letter No. 1713-G., dated the 2nd February, 1931, to the Government?

(*b*) If so, will the Hon'ble Member be pleased to state what is the decision of the High Court in the matter?

(*c*) When is the said decision likely to be given effect to?

Mr. A. C. R. HENDERSON: (*a*) No. The decision in such matters rests with Government which has recently issued notification No. 3941F., dated 19th August, 1932, on the subject.

(*b*) and (*c*) Do not arise.

Process-servers' accommodation.

6. Maulvi ABDUL HAMID SHAH: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that the Hon'ble Justice Cumming of the Calcutta High Court directed the Mymensingh Process-servers' Association (*vide* his inspection report of the Mymensingh district of 1930) to put up their grievance about accommodation in the court premises by a resolution of their Central Association at Calcutta?

(*b*) Will the Hon'ble Member be pleased to state whether the resolution of the process-servers' last Barisal Conference contained a prayer to this effect?

(*c*) If so, will the Hon'ble Member be pleased to state what action, if any, is being taken in the matter?

Mr. A. C. R. HENDERSON: (*a*) Mr. Justice Mallick inspected the courts at Mymensingh in 1930. He informed the process-servers that if the whole body of process-servers in the province had got any real grievance on these points, they might submit the matter to the authorities through the Process-servers' Association.

(*b*) Yes.

(*c*) None; this particular complaint is a matter for the local officers.

NON-OFFICIAL MEMBERS' BILLS.

[The discussion on the Calcutta Municipal (Amendment) Bill, 1932, by Maulvi Abul Kasem, was then resumed.]

Rai Bahadur SATYENDRA KUMAR DAS: Mr. President, Sir, I feel no hesitation in saying that this Bill is a great surprise to me and to the whole House.

In the matter of the Calcutta Municipal election, joint electorate after nine years was accepted after much deliberation and discussion. It is a settled fact, and not only this House but the whole of Bengal is proud of it, proud, because, in a sense, we of Bengal here are the pioneers of the recent Allahabad Unity Pact, in spite of the stage-show of communalism at New Delhi.

Mr. PRESIDENT: You must be very brief at this stage, Rai Bahadur.

Rai Bahadur SATYENDRA KUMAR DAS: Yes, Sir, I beg to point out that the issue of the Bill is no longer open. In 1923, separate electorate was accepted as a temporary measure which was bound to terminate automatically after a period of nine years. This automatic termination of separate electorate was a pre-condition for the acceptance of separate electorate in the year 1923. How can Mr. Abul Kasem now say that he is not bound by this condition? We are expected to act according to our words.

Mr. PRESIDENT: At this stage, you cannot criticise the provisions of the Bill very elaborately or in detail. If you are opposing the introduction of the Bill, you must briefly state what your reasons are.

Mr. S. M. BOSE: On a point of order, Sir. I believe, on the 22nd evening last the matter was just going to be put to a division, when you, Sir, allowed Maulvi Abul Kasem to make a statement.

Mr. PRESIDENT: If I remember aright, objection was taken to the introduction of the Bill, and Maulvi Abul Kasem was allowed to make a statement in support of his Bill. Any member who wants to oppose the introduction of the Bill, can make a brief statement in support of his case.

(Maulvi Abul Kasem having risen to a point of order.)

Mr. PRESIDENT (to Maulvi Abul Kasem): When you rise to a point of order, you must be able to point out some irregularities in the debate and not utilise the occasion for making a general statement in the House.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of order, Sir. May I know your ruling as to what are the matters which would be relevant in opposing the introduction of a Bill? Am I to understand that a brief statement on the principles of the Bill is allowable?

Mr. PRESIDENT: The position is this: when leave is asked for the introduction of a Bill, if any one opposes its introduction, the Chair may allow the member in charge of the Bill to make a brief statement in support of his motion. Similarly, the President has the power to allow the member who opposes the introduction of the Bill to make a brief statement in support of his attitude in the matter. Those who make such statements must choose their grounds certainly they may touch the principles of the Bill.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of order, Sir. When a member asks for leave for the introduction of a Bill, and there is opposition to it, the mover is allowed to make a statement, and no question of any other member opposing the introduction arises. I think the Chair's ruling is against Parliamentary conventions.

Mr. PRESIDENT: No. Our rules provide that the Chair may allow the member opposing to make a brief statement as to why he is against the introduction of the Bill.

Rai Bahadur SATYENDRA KUMAR DAS: How can at this stage Maulvi Abul Kasem say that he is not bound by this condition? That

great Minister, the late lamented Sir Surendranath, on that memorable debate said, "after nine years the general electorate will assert itself and its machinery will be put into force". After this pledge, Sir, are we not committed to it——

(At this stage the member was called to order and resumed his seat.)

Maulvi ABUL KASEM: Sir, with your permission, I want to withdraw my present motion because I feel that I shall have an opportunity of speaking when the next Bill comes up before the House. I want to make it distinctly clear, however, that I reserve my right to speak fully on that occasion.

Rai Bahadur KESHAB CHANDRA BANERJI: On a point of order, Sir. Can Maulvi Abul Kasem withdraw his motion at this stage without the leave of the House?

Mr. PRESIDENT: Are you serious about your point of order, Rai Bahadur?

Rai Bahadur KESHAB CHANDRA BANERJI: Yes, Sir, I am quite serious, and we, on this side of the House, object to leave being granted for the withdrawal of the motion.

Mr. PRESIDENT: In that case, I must put to the House the Maulvi Sahib's motion to withdraw his Bill. If his motion is carried the Bill will be withdrawn.

The question that leave be granted to Maulvi Abul Kasem to withdraw his motion was put and agreed to.

Calcutta Municipal (Amendment) Bill, 1932.

Mr. A. RAHEEM: Sir, I beg to move for leave to introduce the Calcutta Municipal (Amendment) Bill, 1932.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I object to the introduction of the Bill, because we have not yet seen a copy of the Bill. Further, the Rules and Standing Orders provide that a copy of a Bill should be furnished at least seven days before its introduction.

Mr. PRESIDENT: You cannot raise that question at this stage. You can do so when the mover or any other member moves any further stage of the Bill for instance that the Bill be taken into consideration.

The motion for leave to introduce the Bill was put and a division taken with the following result:—

AYES.

Aizal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Baksh, Maulvi Shaik Rahim.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Choudhury, Maulvi Nural Absar.
Chowdhury, Haji Badi Ahmed.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hosain, Nawab Musharruf, Khan Bahadur.
Huq, Mr. A. K. Fazl-ul.
Hussain, Maulvi Latafat.
Karim, Maulvi Abdul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Lal Muhammed, Haji.
Momin, Khan Bahadur Muhammad Abdul.
Quasem, Maulvi Abul.
Raheem, Mr. A.
Rahman, Maulvi Azizur.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray Chowdhury, Mr. K. C.
Sarker, Rai Sahib Rebati Mohan.
Shah, Maulvi Abdul Hamid.
Solaiman, Maulvi Muhammad.

NOES.

Banerji, Mr. P.
Banerji, Rai Bahadur Keshab Chandra.
Basu, Babu Jatindra Nath.
Basu, Mr. Harendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Ghose, Dr. Amulya Ratan.
Guha, Mr. P. N.
Gupta, Mr. J. N.
Law, Mr. Surendra Nath.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Sub Lal.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Peddar, Mr. Ananda Mohan.
Peddar, Seth Hunuman Prosad.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Hosani.
Ray, Babu Haribansa.
Ray, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

The Ayes being 32 and the Noes 38, the motion was lost.

3-30 p.m.

The Nadia Waterways Bill, 1932.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move for leave to introduce the Nadia Waterways Bill, 1932.

Rai Bahadur SATYENDRA KUMAR DAS: I beg to oppose this.

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I wish to make it perfectly clear that Government are totally opposed to this Bill. First of all I want to point out that the provisions of this Bill are absolutely inconsistent with and cut across all existing legislations such as the Irrigation Act, Canals Act and the Embankments Act. Therefore Government cannot possibly agree to its reference to a Select Committee.

Khan Bahadur Mâulvi AZIZUL HAQUE: Am I to understand that Government oppose the introduction of this Bill?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: The Government is not opposing the introduction of the Bill.

Maulvi ABUL KASEM: If the Government is not opposing the introduction of Bill, how is the Hon'ble Member allowed to speak?

Mr. PRESIDENT: You are right. A statement is allowed to be made at this stage only when the member is opposing the Bill. But with the indulgence of the Chair, I think the Hon'ble Member can make a statement, because a statement on behalf of Government may be helpful to all parties concerned.

Khan Bahadur Maulvi AZIZUL HAQUE: Am I to understand that in a legislative measure the House will have to consider whether we should proceed or act on the attitude of Government?

Mr. PRESIDENT: No, but there is no harm in ascertaining the attitude of Government.

Mr. B. C. CHATTERJEE: May it not prejudice the House beforehand if you allow the Hon'ble Member to make a speech?

Mr. PRESIDENT: That depends on the strength of the House. At any rate, he is sure to speak on the Bill at some stage or other, and the House I think should be able to take care of itself.

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I merely wish to say that Government is opposed to this Bill. I have already stated the opinion of Government on this Bill and more than that, namely, that a Bill of this kind cannot possibly be taken up with references to a single district. It must have within its scope the whole province and as rivers are not confined within the bounds of one district it is all the more necessary that a system should be devised for the whole province. It must be in the recollection of the members of this

House that a committee of experts was appointed to inquire into the Irrigation Department and to make suggestions. As a result of their report a Bill has been made ready and Government believe that they will be in a position to introduce the Bill very shortly. Besides, I may mention that it would have been introduced long ago but for the fact that the initial stage Government had necessarily to consult many public bodies and the correspondence carried on with the public bodies took a very long time. Thereafter there was the most important question of finance which had to be gone into very carefully. Government believe they will be in a position to introduce the Bill soon. In these circumstances, while Government are opposed to a Bill of this nature they are not however opposed to its introduction.

The motion was put and agreed to.

(The Secretary then read the short title of the Bill.)

Khan Bahadur Maulvi AZIZUL HAQUE: In view of the statement of the Hon'ble Member may I have your permission to move a dilatory motion, namely, that the Bill be circulated for eliciting public opinion by the 15th January?

Mr. PRESIDENT: There is already a motion to that effect.

Mr. S. M. BOSE: On a point of order, Sir. Under section 51 of the Rules and Standing Orders this Bill should have been in the hands of members seven days before. As a matter of fact the Hon'ble Member has given us this Bill on the floor of this House on the 22nd instant.

Khan Bahadur Maulvi AZIZUL HAQUE: This is true. I was not sure what attitude Government would take in this matter, so I propose that the Bill be circulated for eliciting public opinion.

Maulvi ABUL QUASEM: I have already given notice of a motion to that effect.

Mr. S. M. BOSE: Can that be moved? It is an amendment to Khan Bahadur's motion and if the original motion cannot be moved the amendment cannot be moved.

Mr. PRESIDENT: I think there is a distinct difficulty. Mr. Quasem's amendment to the motion does not arise. But is it not possible, I want the House to consider, for the Khan Bahadur to move an independent motion to circulate the Bill as he is not moving his motion to refer the Bill to a Select Committee? I think the Khan Bahadur can do so, with the concurrence of this House, if I suspend the order on which Mr. S. M. Bose's objection is based.

The Hon'ble Sir PROVASH CHUNDER MITTER: With your permission, Sir, I desire to draw your attention to this aspect of the position. We are concerned with the proviso under which objection has been taken by Mr. S. M. Bose. Section 51 reads thus—

When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to the Bill, namely:—

(*a*) that it be taken into consideration by the Council either at once or at some future day to be then mentioned, or

(*b*) that it be referred to a select committee, or

(*c*) that it be circulated for the purpose of eliciting opinion thereon:

then the proviso comes in

"Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made, unless copies of the Bill have been so available for seven days before the motion is made, and such objection shall prevail, unless the President in exercise of his power to suspend this order allows the motion to be made."

There is no doubt that if you want to suspend the order of business you can do it.

Mr. PRESIDENT: But I have not done that

The Hon'ble Sir PROVASH CHUNDER MITTER: Unless you suspend the order of business the Bill is not before the House. The proviso will apply in all the three cases namely, (*a*), (*b*) and (*c*) of the section referred to. Ordinarily no doubt a motion for circulation is a dilatory motion but in this particular case the acceptance of the motion for circulation will save the Bill so that it may be taken on some future date: on the other hand if the motion for circulation is not allowed then the Bill will be killed. But if the motion for circulation, or for the matter of that any other motion coming under categories (*a*), (*b*) or (*c*) be not allowed the mover cannot have any legitimate right to complain. If there be any prejudice it is due to his oversight as he should have placed the Bill in the hands of the members seven days before moving the motion even though for a private member it is possible to get public opinion, although no doubt he has not got the same facilities as Government have. After all the difficulty of the procedure is due to his own fault.

Mr. NARENDRA KUMAR BASU: May I be permitted to point out, Sir, that rule 51 only refers to motions of the member in charge of the Bill? May I know whether any other member may not move that the Bill be circulated?

Mr. PRESIDENT: The difficulty is that the member-in-charge is the only member who can accelerate the progress of the Bill by a substantive motion. A motion to circulate the Bill is a motion to accelerate the progress of the Bill, so, how can any member other than the member in charge of the Bill move it?

Mr. NARENDRA KUMAR BASU: Rule 52 says that no motion that a Bill be taken into consideration or be passed, shall be made by any member other than the member in charge of the Bill and no motion that a Bill be referred to a Select Committee or be circulated or re-circulated for the purpose of eliciting public opinion thereon shall be made by any member other than the member-in-charge, except by way of amendment to a motion, made by the member-in-charge.

The Hon'ble Sir PROVASH CHUNDER MITTER: On a point of order. The mover's object is to accelerate the progress of the Bill and we are all anxious for the correct procedure being adopted.

Mr. PRESIDENT: I am afraid that it is impossible for any other member to help the Khan Bahadur in a matter like this, as under section 52A, it is not possible for any other member to move for circulation or re-circulation, except by way of amendment but, the original motion to refer the Bill to a Select Committee has not been moved. I am, however, for obvious reasons, anxious to help the Khan Bahadur. If the House will unanimously agree, I can allow him to move a motion to circulate his Bill; but, if there be one dissenting voice, I shall be reluctantly compelled to dissuade him from moving it.

Khan Bahadur Maulvi AZIZUL HAQUE: I appeal to the good sense of the House to permit me to move this motion.

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I should like to suggest that the time for eliciting public opinion might be extended.

Mr. PRESIDENT: I leave that to the Khan Bahadur.

No one taking objection to the suggestion of the Chair——

Mr. PRESIDENT: In exercise of my power I suspend the order on which stood Mr. S. M. Bose's objection. The Khan Bahadur can now move that his Bill be circulated for eliciting public opinion.

Khan Bahadur Maulvi AZIZUL HAQUE: I thank you, Sir, and the members of the Council for granting me facilities to move a motion

of this nature. I also thank the Government benches for not objecting to circulation. At the outset I must explain that I was tempted to move a motion of this nature because of the inactivity of the Irrigation Department. The Departmental Committee which was appointed and presided over by Mr. Hopkyns reported that it was a matter for the whole province. I quite realise the difficulties and hope that at least the public will accept the statement made by the Hon'ble Member-in-charge just now as to what has been done as regards the Statutory Board in connection with the Irrigation Department. Unfortunately, however, the Irrigation Department has been in for so much to say that I consider that it will be prudent for me not to say as much as I would like to. But I do not agree with the Government standpoint that they are opposed to reference to the Select Committee on the ground that it might cut across some other Act of the department. I am afraid the purpose of every law is to cut across some other law. Another argument that has been raised is that it refers to a particular district, but I am afraid Government is totally oblivious of the fact that this Nadia River system is responsible for the supply of water discharged into the districts of Murshidabad, Jessore and Khulna. That being so, there is every likelihood of better water-supply throughout the Presidency Division. My purpose is merely to allow the people of my district the freedom to move by spending their own money. My object is not to ask Government to spend a single pie. We want to spend our own money for better irrigation facilities and for cutting the old beds of the rivers. Unfortunately very little has been done in the past so far as Government is concerned except the Uttampur cut which was done at the time of the Hon'ble Maharaja Bahadur of Nadia and the very recent announcement of Rs. 5,000 by the Hon'ble Member-in-charge. But this scheme has been pending for years past, and if it proves anything, it proves what tremendous difficulties the people have to face in carrying out a scheme of this nature. Sir, the Nabaganga scheme could not have been taken up if the district boards of Nadia and Jessore were not agreeable to finance it and even now the department have taken a guarantee from us, but that is far away. I fail to appreciate this attitude of Government and cannot understand why the people of Nadia should not be allowed to spend their own money in cutting the old beds. It does not mean that we should take the permission of the Irrigation Department; if any permission is necessary, we will have to take it subject to rules and regulations of the Department. The people of Nadia ought to have a word of their own. In any case that is a matter to be taken up later on. In that view I have nothing more than to move that the Bill be circulated for eliciting public opinion by the 31st January, 1933.

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I am afraid the mover has taken an undue advantage of my forbearance in not opposing the introduction of his Bill by making a reference to my

speech and criticising the part the Irrigation Department has played in the past. I did not expect that he would do that, particularly as he was present only the other day at a gathering where I explained to what length unjust and uninformed criticism could go. As that I think was a sufficient corrective, I do not propose on this occasion to expose further the hollowness of his remarks. However, I hope he will realise that a scheme of this kind cannot possibly be taken up piecemeal. To be of any lasting benefit it must be one organised scheme for the whole province. I may say that the Bill drafted by Government is on the lines recommended by the Committee that was appointed by the Irrigation Department. In addition the Committee went so far as to recommend that the Governments of Bihar and Orissa and that of Assam should be invited to co-operate and no doubt when the Waterways Trust begins to function, these two Governments will be asked to join. I can therefore assure the House that the Government are willing to bring forward a Bill of their own to this end. In this view I trust the mover will see that there is really no necessity whatsoever for a separate Bill for the district of Nadia.

Another point is the time for eliciting public opinion by the 31st January, 1933. I rather think that it is much too short a period and I would suggest that the mover might agree to a longer period, say by the end of February, 1933.

Khan Bahadur Maulvi AZIZUL HAQUE: It is impossible. My motion is that the Bill be circulated for the purpose of eliciting public opinion by the 31st January, 1933.

4 p.m.

The motion was then put and agreed to.

The Bengal Tenancy (Amendment) Bill, 1932.

The following motion was called but not moved:—

Maulvi SYED MAJID BAKSH to move for leave to introduce the Bengal Tenancy (Amendment) Bill, 1932.

The Calcutta Municipal (A[illegible]) Bill, 1932.

The following motion was called but not moved:—

MUNINDRA DEB RAI MAHASAI to move for leave to introduce a Bill to amend the Calcutta Municipal Act, 1923 (Bengal Act III of 1923), changing the designation of the Mayor of Calcutta to Lord Mayor.

The Puri Lodging House (Amendment) Bill, 1932.

Rai Bahadur KAMINI KUMAR DAS: I beg to move for leave to introduce the Puri Lodging House (Amendment) Bill, 1932.

The motion was put and agreed to.

(The Secretary then read the short title of the Bill.)

Mr. SHANTI SHEKHARESWAR RAY: I have received the Bill, Sir, only this morning.

Mr. PRESIDENT: Do you object to this?

Mr. SHANTI SHEKHARESWAR RAY: I do not object, but I am simply pointing it out.

Mr. PRESIDENT: What is the good of your pointing it out when you do not object?

Reverend B. A. NAG: I, too, object to the Bill.

Mr. PRESIDENT: I uphold the objection.

Rai Bahadur KAMINI KUMAR DAS: Then what is my position, Sir?

Mr. PRESIDENT: You have introduced the Bill all right, but you cannot move that the Bill be taken into consideration. You must move that at a later stage.

The Bengal Suppression of Immoral Traffic Bill, 1932.

Babu JATINDRA NATH BASU: I move that the name of Mr. G. P. Hogg be added to the Select Committee constituted by this Council on the 5th August last to report on the Immoral Traffic Bill, 1933.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m., on Friday, the 25th November, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Friday, the 25th November, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, three Hon'ble Members of the Executive Council (the Hon'ble Mr. W. D. R. Prentice being absent), the three Hon'ble Ministers and 111 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Visitors of Jails at Dum-Dum.

*24. **Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state—

(*i*) the names of the visitors of the three jails at Dum-Dum; and

(*ii*) the dates on which they visited their respective jails during January to July, 1932?

(*b*) Is any member of the Bengal Legislative Council a visitor of the said jails?

(*c*) If the answer to (*b*) is in the negative, are the Government considering the advisability of appointing some members of the Bengal Legislative Council as visitors of the said three jails?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) Up to 17th July, 1932, the following gentlemen were visitors of jails at Dum-Dum:—

I. Dum-Dum Special Jail—(1) Raja Bhupendra Narayan Sinha Bahadur, M.L.C., (2) Babu Manujendra Nath Datta, (3) Babu Narayan Das Kar.

II. Dum-Dum Additional Special Jail—(1) Babu Annada Prasad Mitra, and (2) Babu Narendra Nath Sen.

III. Dum-Dum Second Additional Special Jail (opened in April, 1932)—None.

From 18th July, 1932, the following gentlemen are visitors of the three Special Jails at Dum-Dum:—

(1) Babu Prafulla Kumar Guha, M.L.C.

(2) Maulvi Mahammad Saadatullah, M.L.C.

(3) Babu Panchu Gopal Chakravarti.

(4) Babu Sailaja Lal Chatarji.

(5) Mr. A. E. Lockhart.

From 9th November, 1932, the following gentlemen are visitors for Division I prisoners:

(1) Babu Prafulla Kumar Guha, M.L.C.

(2) Dr. Provat Chandra Sen, M.B., M.R.C.S.

(*ii*) No visits were paid

(*b*) Yes.

(*c*) Does not arise.

Sreejut Subhas Chandra Bose.

*25. **Dr. AMULYA RATAN CHOSE:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state in which sanatorium Sj. Subhas Chandra Bose will be placed for his treatment after the close of the Bhowali sanatorium in December next?

(*b*) Are the Government considering the desirability of taking steps for Mr. Bose's admission into the Jadabpur sanatorium for treatment until the Bhowali sanatorium re-opens in March?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) No information has yet been received regarding the sanatorium to which he will be sent after the close of the Bhowali sanatorium on the 15th December, 1932.

(*b*) The decision in this matter does not rest with the local Government.

Banskhali and Julkudder toll stations in Chittagong.

*26. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Irrigation Department be pleased to state—

(*i*) in how many places toll stations have been established on the banks of the rivers in the district of Chittagong;

(*ii*) whether there is any toll station in the Cox's Bazar subdivision?

(*b*) If the answer to (*a*) (*ii*) is in the negative, what are the reasons?

(*c*) What is the necessity for establishing the toll stations?

(*d*) Are they intended for excavating *khals*?

(*e*) If the answer to (*d*) is in the affirmative, will the Hon'ble Member be pleased to state for purposes of excavation of what *khals* the toll stations of Banskhali and Julkudder have been established on both the extremes of the natural *khal*?

(*f*) Are the Government considering the desirability of withdrawing the said two toll stations of Julkudder and Banskhali?

MEMBER in charge of IRRICATION DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (*a*) (*i*) At Boalkhali, Indrapole, Chandkhali, Sikalbaha, Murali, Banskhali and Julkudder.

(*ii*) No.

(*b*) Because there are no navigable channels maintained under the Canals Act in the Cox's Bazar subdivision.

(*c*) The toll stations have been established by the district board to collect the tolls on navigable channels which it maintains.

(*d*) No.

(*e*) Does not arise.

(*f*) No. The two toll stations referred to are situated on the Kimirachara channel, which together with some other navigable channels in Chittagong district is maintained by the district board.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Letters of détenus and State prisoners.

7. Dr. AMULYA RATAN GHOSE: (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether he is aware of a general complaint amongst the State prisoners and détenus and their relations and friends about the inordinate delay in the censoring and passing of their letters in the S.B. and I.B. offices?

(*b*) If so, are the Government considering the desirability of pointing out to the officers concerned the necessity of speeding up the censoring and passing of the letters of the détenus and the State prisoners?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) From time to time individual complaints are received, but Government are not aware that such complaints are as general as is alleged by this question.

(*b*) From time to time Government have impressed on officers the necessity of having this work done as quickly as is possible.

NON-OFFICIAL MEMBERS' BUSINESS.

Adjournment motion.

Mr. SYAMAPROSAD MOOKERJEE: Sir, may I ask for leave to move a motion——

Mr. PRESIDENT: Mr. Mookerjee, please resume your seat.

(The member resumed his seat.)

Mr. Mookerjee has sent in notice of a motion, *viz*, that the business of the House do stand adjourned to consider a definite matter of urgent public importance, *viz*, the situation arising out of the alarming state of health of Srijut Subhas Chandra Bose and Srijut J. M. Sen Gupta now detained as State prisoners under Regulation III of 1818, the intensity of public opinion in the matter being amply evident in the recent Town Hall meeting.

Is there any objection to leave being granted for moving this motion?

Mr. PRESIDENT: Mr. Mookerjee, I may take it, has the leave of the House to move his motion. As regards the time, I should like to hear what the Leader of the House has got to say. I should myself like this adjournment motion to be taken up at 6 p.m. to-day. I hope members will co-operate with me in seeing to it that the discussion on the special motion of Mr. Bose is finished before the prayer adjournment, and then we can get on with the adjournment motion of Mr. Mookerjee.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, as you have been pleased to fix the discussion on the adjournment motion of Mr. Mookerjee to-day, I might submit two points.

(Here the Hon'ble Member was inaudible from the reporters' table.)

Mr. PRESIDENT: But since I have fixed the date, it stands to reason that the hour also must be fixed; otherwise, the point at issue will be absolutely indefinite. If the motion is taken up at 6 o'clock, we can discuss it until 8 o'clock this evening.

The Hon'ble Sir PROVASH CHUNDER MITTER: Well, anyhow, we must finish by 8 o'clock.

Mr. PRESIDENT: I fix 6 o'clock as the time for beginning the discussion of the adjournment motion.

An Upper Chamber for this province.

Mr. S. M. BOSE: Sir, may I have your permission to move my special motion in a slightly modified form? I want to delete the last four words, *viz.*, "constituted on non-communal lines."

Mr. PRESIDENT: Yes, you have my permission to do so. In that case, I think the amendments to this motion need not be moved.

Mr. S. M. BOSE: Sir, I beg to move the resolution that stands in my name in a slightly amended form, *viz.*, "This Council requests the Government of Bengal to communicate to the Government of India and His Majesty's Government in England the opinion of this Council that in the new constitution that is shortly going to be established in Bengal, the provincial legislature should consist of two chambers, instead of one, the Upper Chamber to be the real House of Elders."

Sir, we are on the eve of a new constitution, and I feel it my duty to put forward the suggestion that there should be an Upper Chamber in Bengal. My reasons are many.

Under the system of dyarchy, now prevailing, the question of Second Chambers did not arise (as the Lothian Committee have said in paragraph 376, page 149, of their report), because the Councils were responsible only over a very limited sphere. But with the decision that there should now be established responsible government—autonomy in the provinces—the question has become one of considerable importance. In other words, so long as there was a real and substantial check on the powers and functions of the provincial Councils, so long as there was what I might call an external check, there was no need for a revising chamber. But now that our powers are going to be considerably enlarged, now that external checks are to be removed, we must have *internal* checks, checks in the legislature itself, provided by the creation of an Upper House.

3-15 p.m.

Next, the present power of veto by the Governor over the legislature is a source of irritation to the people. When our powers are going to

be enlarged under a system of provincial autonomy, the power of veto is likely to be made more extensive unless there be a Second Chamber. To prevent needless friction and unpleasantness resulting from the Governor's veto (the exercise of which will be likely to be more frequent with the extension of power of a single chamber), there must be a Second Chamber. Our desire is to reduce the power of veto as much as possible so that the Governor will be in a position analogous to the King in England.

My third ground for urging the establishment of an Upper Chamber is the tremendous extension of the electorate proposed. After the Reforms the number of voters in Bengal rose to a little over thirteen lakhs. Now it is proposed to raise the number to eighty lakhs, so that sixteen per cent. of the total population is enfranchised. This tremendous and sudden increase is inevitable and is a welcome sign, but it requires careful watching. It may be that the sudden increase of six hundred per cent. may lead to the election of many men of extreme views, so that it may be apprehended that hasty inequitable decisions may be made by the Council. I want to make it quite clear that I am not opposed to the extension of the franchise. I welcome it as a move in the right direction. But as I said, it requires careful watching. Further, it is well known that the lower the franchise, the greater is the chance of voters being carried away by gusts of emotion. They are likely to be swept off their feet, they are prone to fits of sentiment which temporarily cloud their vision. This is at once the glory and the weakness of democracy—glory, as it rises to heights of noble emotion, weakness, as it loses sight of other considerations. Now an Upper House is likely to form a check—a breakwater—against these sudden storms, sudden tidal waves.

Thus on the grounds set forth above, it would appear reasonable and proper that there should be an Upper Chamber in Bengal. I therefore assert that in Bengal under the new constitution, there must be an Upper House.

Now, this is fully supported by the history of all civilised countries in the world—countries far more democratic than Bengal—countries with adult suffrage.

In Republican France, the home of liberty, fraternity and equality, there is as we all know a bi-cameral legislature consisting of the Senate and Chambers of Deputies. In America, the central government consists of the Senate and House of Representatives. I desire to call particular attention to the form, in America, of the State Governments, as America, the home of liberty, with its various states is a prototype of the proposed Federation of India. As we all know, there are forty-eight states making up the union, each one having a legislature always consisting of two Houses, the smaller called the Senate, the larger

usually called the House of Representatives. It is interesting to note the fact that when the states framed their constitution, some tried to go on with a legislature of one House only. But these states (three in number) all gave this up in favour of two Chambers. As Bryce in his famous work "The American Commonwealth" says—I quote his very words—"Now, however, the need for two Chambers is deemed an axiom of political science, being based on the belief that the innate tendency of an Assembly to become hasty, tyrannical, needs to be checked by the co-existence of another house of equal authority. The Americans restrain their legislatures by dividing them, just as the Romans restrain their executive by substituting two Consuls for one King."

In the Dominion of Canada there are two Chambers in the centre. In two provinces there are two Chambers in each.

In the Commonwealth of Australia, the home of a very democratic community with adult suffrage, the Federal Parliament consists of two Houses. In each of the five out of the six component states, there are two Chambers.

In the Union of South Africa, there are two Houses.

Further, in every unitary state of Europe, there are two Chambers. Turning to the post-war states, we find the remarkable fact that the custom of the older states of having two Chambers has been almost invariably followed. In the German Republic, the legislature consists of two Chambers. The Prussian Republic has two Houses, as also the Australian Republic and Hungary.

I wish to draw attention to the remarkable constitution of countries which are so much talked of in India—the Irish Free State and Soviet Russia. The Irish Free State Legislature by the Act of 1922 is composed of two Houses, a Chamber of Deputies and a Senate. Even the Union of Soviet Socialist Republics (Russia) has adopted the bi-cameral principle.

From a brief examination of various countries all over the world, we find that there is invariably an Upper House, as a safeguard or check. This is so, whether the state is unitary or is made up of a bundle of states or a Federation, whether it be an absolute or a limited monarchy or republic. This remarkable common feature is not the result of a mere accident, but something due to fundamental causes, as explained by eminent political philosophers like Bryce, Walter Bagehot, John Stuart Mill, Henry Sidgwick, Lecky and others. As Mill said, a permanent majority in a single assembly easily becomes despotic if released from the necessity of getting the consent of another house and the same reason which induced the Romans to have two Consuls makes it desirable that there should be two Chambers; so that neither of them may be exposed to the corrupting influence of undivided power.

Sidgwick, in recommending a second chamber, is of opinion that it is desirable that the two Houses should be elected on different plans in respect of the extent of renewal and duration of powers, so that the lower chamber being chosen for a comparatively short period may more freshly reflect the opinions of the majority of the electorate and the Senate elected for a much longer period may be able to withstand the influence of any passing gust of popular passion or sentiment.

To sum up, a consideration of the constitution of the various states all over the world shows the necessity of a counterpoise to democratic fervour, of the safety which lies in sober second thoughts, of the advisability of check on hasty and ill-considered legislation, of the value of an appeal from Philip drunk to Philip sober. The facts briefly enumerated above, I maintain, conclusively establish the proposition that no important state, whatever its form and government, whether federal or unitary, monarchical or republican, whether the constitution be flexible or rigid, is without a Second Chamber. History shows us that three of the greatest of the modern states actually tried the experiment of a Single Chamber England, France and the United States, but afterwards gave up the experiment. It has been shown above that Federal States like America and Australia have two Chambers, not only in the centre but in the provinces as well.

Now a few words about the character of the Upper House for Bengal. I want to make it clear that I do not want anything like the House of Lords, a House filled with hereditary nobility who are always averse to progress, a House which is the abode of the diehards. We want in the House an aristocracy of intellect, men of education and experience in the service of the state, men representing the great social and industrial interests in the country, men of sufficient strength to avoid the evils which might possibly flow from the unchecked powers of an autocratic Lower Chamber. The Lower House in an autonomous province, to my mind supplies the motive force, the engine power so necessary for progress. The Upper House, properly constituted, will serve as a brake to check dangerous speed.

It is not necessary for me here to give any details as to how this Upper Chamber is to be constituted, nor it is necessary for me to discuss here the relation between the two Houses, beyond stating that, in my opinion the Lower House must be the predominant one and should have the sole power to initiate money bills; and that in other respects, the relation should be *mutatis mutandis* that recommended as between the Upper and the Lower Chambers of the Federal legislatures in paragraphs 40-42 of the Federal Structure Committee's Third Report.

I want this Upper House to be constituted on truly national lines with representations of various interests in the State—education, commerce, industry, labour, capital, etc., and not of communal interests.

Sir, it may be asked if there is a central Council of State, why should there be an Upper Chamber in Bengal. The answer is obvious. The Central Legislature will deal exclusively with federal subjects. We want an Upper House to deal with Bengal matters, Bengal laws and Bengal needs, to help in the framing of suitable legislation for Bengal. Now can this possibly be done by a Central Upper House? This is the reason why in large Federal States with very populous and large provinces, there is almost invariably an Upper Chamber. If France, with a population of 39½ millions has two Houses, if countries far smaller in area and population have Upper Houses, cannot Bengal with its 50 millions of people, an Empire by itself, ask for an Upper House?

It has been said by some of my friends that an Upper Chamber is undemocratic. I would ask them carefully to study the history of other countries.

Democracy is the breath of my nostril, for I have been born and bred a democrat. It is because I am a democrat, it is because I intensely believe in democratic Government and want its success in Bengal that I ask for an Upper Chamber, I want to do away with all external control. With the considerable expansion of power I want power of self-control, power of self-determination, power to do justice to all interests in the State. I believe that for the success of Provincial autonomy, it is essential that there should be a Second Chamber.

I therefore hope that this House will accept the principle of an Upper Chamber for Bengal.

3-30 p.m.

Maulvi ABDUL KARIM: I rise to oppose the resolution. In these days when there is an insistent demand for democratic institutions, a proposal for the establishment of an Upper Chamber is a retrograde move. Having been for some time a member of such Chamber, the Council of State, I am not unaware of its composition and working. We have not got from any quarter the slightest indication as to what the proposed Chamber would be like. Would it be a replica of the British House of Lords, which has outgrown its utility, and for the abolition of which, in spite of its age-long traditions, there is persistent agitation? Would it be something like the Indian Council of State, which is dominated by the representatives of the titled and landed aristocracy and capitalists, and is thus the negation of democracy? Though intended to be a revising body and to serve as a check on hasty legislation, instances are not wanting of the obstructions of useful measures that were not in the particular interests of those who usually elect and nominate members to this Chamber. In a province like Bengal the establishment of an Upper Chamber, I need hardly say,

would be most detrimental to the interests of the bulk of its people. Without knowing the constitution and the real functions of the provincial Upper Chamber, it would be something like signing a blank cheque to agree to its being established. I am not quite certain that the mover of the resolution has not confused Federal Government in other countries with its federating units. Federal Governments, as a rule, have two Chambers, but constitutions corresponding to that of our provincial administration, generally have only one Chamber.

Under the Reform Scheme of administration, which is at present operating, while an Upper Chamber was established at the centre, it was not thought necessary to have such Chambers in the provinces. Might I inquire what has happened in the meantime to justify the establishment of such Chambers in the provinces under the new constitution? The Punjab and the Assam Legislative Councils threw out proposals for Second Chambers in those provinces, and Madras, I understand, has decided not to have such a Chamber. What is undesirable for these provinces is undesirable for Bengal also. It is only in the United Provinces, the stronghold of landed aristocracy, that the proposal for a Second Chamber has been accepted.

Bengal is pre-eminently an agricultural province, where the interests of the tillers of the soil really constitute the interests of the country. Should anything be done that would jeopardise those interests? Higher franchise for the Upper Chamber would, as a rule, preclude people of moderate means, who form the majority of the intelligentsia, from finding a place in it, and the result will be that measures beneficial to the aristocratic and capitalistic classes, but prejudicial to the masses, would always find ready support

Deprived, as Bengal has been, of the income from some of her most lucrative sources it would be difficult for her to bear the burden of maintaining two costly Chambers.

As regards the constitution of the Upper Chamber, in the existing circumstances I cannot think of a basis other than communal on which such a Chamber can be constituted. The Prime Minister's assurance in the statement on the communal award that the "communal balance" will not be disturbed in any provincial Second Chamber, supports this view. The present Council of State has been constituted on a communal basis. If its precedent is followed, any ulterior motive that there might be for getting a Second Chamber would be frustrated and disillusionment might come when it would be too late. All these aspects of the question, I need hardly say, require most serious consideration.

There is not much to be chosen between the aristocrats of one community and those of another. As a class they are sure to combine for the furtherance of their own particular interests which, as a rule, cannot be identical with the interests of the masses.

While large powers are going to be reserved for the Governor and the Central Government will have some revisory jurisdiction, I think there cannot be any justification for a provincial Second Chamber in Bengal.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: In rising to support the motion of my friend Mr. S. M. Bose I must express my thanks, my sincere thanks to him, for having given us an opportunity of expressing the views of the landholders of Bengal about the formation of an Upper Chamber in this Province. The landholders of Bengal, not only of Bengal but of all India, have expressed their views and made their position clear on this point. In the very beginning, with the conception of this idea the landholders recommended a Second Chamber in the province and also sent their memorial. It was justified on historical grounds. As my friend has observed, unicameral legislature has already been tried in other places. If we go to the history of other countries we find that they have since found it necessary to establish a Second Chamber there. If we look into the history of other countries like America and Germany we find that all of them have two Chambers not only in the centre but also in the provincial states. In the post-war constitution of the Irish State they have also adopted it; so there can be no doubt as to the success of this form of legislature in this country. At the time when we sent in our recommendation certain members expressed the view that there might be some motive behind it. But I am glad to say they have now come to agree with us after thinking over the matter carefully. As regards our province I may say that the Government as a whole recommended this constitution. All the European members of the Round Table Conference headed by Sir Hubert Carr representing India also recommended this. If I may be permitted to quote a few lines from his speech, he said as follows:—

"The point has frequently been made and needs no further elaboration, that in any constitution, and particularly in a country where democratic institutions are not fully developed and established, it is extremely desirable that the classes who stand to lose most by civil unrest should be adequately represented in the legislature. It may be doubted whether anywhere democratic electorates have shown sufficient willingness to elect to purely popular assemblies highly educated and experienced men who are neither able nor willing to make a purely electioneering appeal to the imagination of the masses. It is surely desirable that *ex*-administrators, *ex*-judges, eminent professors, large landholders and persons prominent in work of social uplift, should have an opportunity of contributing their share to the working of the constitution."

3-45 p.m.

I am gratified to know, Sir, that the European community also agrees with this view. As regards the speech made by Maulvi Abdul Karim, I cannot understand how he can say that he cannot express his views unless he knows exactly what the constitution will be. In that case it is the Premier who should be asked to say what the constitution will be. But that is not the case. They have asked the Government to submit their memoranda and views and according to that we have submitted it and as a matter of fact, in the first Round Table Conference it had been adopted but it was not finally settled yet. My friend Mr. Bose has brought forward this motion in this Council in order to inform the British Parliament that we still hold the principle of a Second Chamber. I would just close my remarks by quoting one passage from Bryce. Bryce has said that one Chamber is too little to store the knowledge, wisdom and experience which a country possesses. This is the view which Bengal has already expressed upon this matter and will stick to it to the last.

Maulvi ABUL KASEM: Sir, I would have gladly and willingly supported my friend Mr. Bose if he had brought forward a resolution for the suspension of all legislatures in the country for some time to come. But as it is, I am afraid I cannot support him in his motion. Not being a student of constitutional history, it was very difficult for me to follow his speech on this question. Broadly speaking, as an uncultured layman I find that his main argument for the establishment of a Second Chamber in this province is that there should be a check on the vagaries of the Lower House. I was under the impression that a man brought up as a democratic held that the Legislative Council, as it is and as it will be under provincial Autonomy, would be sober, sagacious and representative of the people and that the majority of them would work for the good and advancement of the people. But that, Sir, is a delusion, for I now understand that the Legislative Council, as constituted or as it will be constituted later on, is likely to do things which will go against the interest of the people of Bengal. The second argument that has been brought forward is that, although the Government of India Act of 1919 gave the franchise to a very large number of people, that number will be very largely increased in the next constitution and that will constitute a very great danger. I thought, Sir, that democracy meant that every man should have a vote, that is, adult suffrage. Now we are told by our nationalist friends that the smaller the qualifications of voters, the larger will be their number and so greater the danger to the people of the province (sarcastic cries of "liberal views"). Then, Sir, I find that the object of the Second Chamber is to curtail the powers of His Excellency the Governor. Why? Under the present constitution the Governor has the right of veto in many matters. My friend Mr. Bose says that we do not want the Governor to have a

veto. He wants a Second Chamber—a House of Real Elders—who will have the privilege of checking, and exercising this power of veto. Sir, I do not know much of history. But I find that there is no country in the world where the King or the representative of the King has not got the right of veto; so the right of veto must always rest with the Governor of the province. He and he alone should shoulder that responsibility. My friend wants that this responsibility to a very large extent should be shifted to an Upper Chamber. But how does he conclude that this Upper Chamber will not be as irresponsible and as likely to commit blunders as the Lower one? He says that he does not want a replica of the House of Lords in England. But he does not tell us what the Upper Chamber should be, and how it should be constituted. He has given us some idea that it should form the aristocracy of the intelligentsia of this country but he has not told us how to elect this intelligentsia of the country; I believe perhaps it will be by the graduates of the University of Calcutta. But in that case, I think, the Upper Chamber will consist of graduates only, elected by the senior graduates of the Calcutta University and nobody else. My friend wants representatives of labour, of capitalists, of merchants, of traders, of commerce, etc., to be there. Sir, so long this constitutional question has been discussed in this country by Sir John Simon and his Commission and Lord Lothian and his committee and the Round Table Conference, and the only thing that we could gather from reading their reports is that the Bengal Legislative Council in future will consist of representatives of the zamindars, of merchants, of labour and of everybody else, whom Mr. Bose has mentioned. In that case, Sir, I ask what will be the difference between the Lower and Upper Chamber? I know there is a feeling, and I myself share that feeling, that the elections and elective system and a responsible form of Government in this country will take some time to settle itself, and I also recognise that there may be occasions when we may commit blunders in this House. But I cannot see that the remedy lies in having an Upper Chamber; the remedy should rather lie with the Governor who is the representative of the Sovereign. He must have that responsibility and discharge his duty with regard to it. It is no business of ours to share that responsibility with him or to relieve him of that responsibility by the creation of an Upper Chamber.

Sir, mention has been made of Sir Hubert Carr and his statement before some conference. I do not know whether I am to congratulate Mr. Bose on his having secured the support of his European friends or to congratulate my European friends on their having obtained the support of Mr. Bose and his friends. Whatever it is, it is a combination of Europeans and nationalists which I very much appreciate, and I congratulate both parties, and I hope and trust that in

future they will work hand in hand in co-operation, and bring about the construction or disruption of the province of Bengal!

Mr. J. N. GUPTA: Sir, in rising to support the motion that has been so ably moved by my friend Mr. S. M. Bose I must first congratulate him on the learned historical review with which he has introduced the motion and the constitutional arguments which he has advanced in favour of a Second Chamber in Bengal. He has shown that in countries more advanced and more educated than Bengal, beginning with the home of all Parliamentary institutions, Great Britain itself, necessity has been found for a Second Chamber and in some countries even after an experiment has been made with one Chamber only it has been found necessary to superimpose a Second Chamber. Sir, I do not wish to follow him in his historical survey but I would confine myself only to briefly stating the views of the different authorities who have examined this question from the point of view of an Indian constitution. As is well known, in the Montagu-Chelmsford Report this question was examined, but the authors of the Report were not able to come to a finding that a Second Chamber was necessary for the provinces. The reasons which were then advanced were, firstly, that it may not be possible to find a sufficient number of suitable men for a Second Chamber; secondly, the question of finance had to be considered, and, thirdly—and that was considered to be the really most serious objection—it was apprehended that a Second Chamber would be composed of men who would have vested interests like the landed aristocracy, who might stand in the way of any democratic legislation which the Lower House might like to initiate. This view was again examined by the Simon Commission and then they came to the conclusion—it was a divided conclusion—that for many weighty reasons it was necessary to have a Second Chamber, though there were some members who were opposed to this view. I would briefly state how the position has shifted since then and why these arguments which then prevailed should not carry as much weight now as they did then. I might as well state that on examining present conditions both the Local Government and the Government of India have strongly supported a Second Chamber for Bengal.

To-day we have here the interesting spectacle of an avowed nationalist like my friend Mr. Bose advocating a Second Chamber, whereas my other friends who have not always been (if ever) conspicuous for their advocacy of nationalism and democratic institutions, are very loud in running down the very idea of a Second Chamber. Sir, the reason is not very far to seek. We are faced with an award which—as one of the leading papers, perhaps the most influential paper in Calcutta, pointed out the other day—has laid down the constitution of the Lower House on "an unashamedly" communal basis. What is now necessary is to try and devise some means by which

this communal aspect of the constitution as reflected in the Lower House could at least to some extent be counter-poised by an Upper Chamber to be formed on a more national and, if I may say so, on a more rational basis. That supplies an answer to my friend Mr. Abdul Karim's question why a Second Chamber which was not considered necessary before should now be considered necessary. That also explains the opposition of my Moslem friends who are perhaps apprehensive that they will lose the unfair advantage which they have gained under the award. If we get men in the Upper Chamber who regardless of their colour or creed could be selected for their ripe experience, administrative experience and maturity of judgment, and whose viewpoint is likely to be somewhat different, somewhat more sober and more well balanced than that of the men who are likely to be in influence in the Lower Chamber: will that not be a very great gain? Maulvi Abul Kasem has however argued that any powers which might be necessary to check dangerous and hasty legislation by the Lower House, could be provided by the power of veto which would be entrusted to His Excellency the Governor. But will not His Excellency himself like that his action in such matters should have the support of a more experienced House? Would he not like to feel that he was at least carrying with him the opinion of another Chamber when he was vetoing the action of the Council? Again from the point of view of the nationalists themselves will it not be a great gain if we have a Second Chamber, which need not necessarily always oppose every action that the Lower House might take? If the Upper House supports the Lower House will not His Excellency the Governor find much greater difficulty, and will he not ponder very carefully before he opposes the united views of both Houses? So even from the purely nationalist view also, regard being had to the actual conditions which we will have to face, a Second Chamber will not be a disadvantage, and I think from every point of view it will be a great gain if, for the next stage at least, this province had a Second Chamber.

4 p.m.

The chief advantage will be, as I have already said, that such a measure might provide an antidote to the very undesirable communal aspect which has been introduced in the Communal Award announced by the Prime Minister for the new Constitution. I think I can plead with confidence to all sections of the House, Europeans, Hindus and Moslems, to lay aside all ideas of communal or sectional gains and losses and come to an amicable arrangement by which the undesirable communal tendencies in the Lower House may be corrected either by an Upper House or by any other means. Sir, the difficulty of securing a sufficient number of members of a suitable and desirable class for the Second Chamber need not frighten us. I, for myself, think that we can get better men for the Upper House than for the Lower House.

The financial objection also is not very serious. It is not necessary, Sir, to have a large number of men in the Second Chamber; we may have only 30 or 40 members, two-thirds to be elected and one-third to be nominated by Government. Sir, on a consideration of all the above facts I am strongly of opinion that the House should adopt this motion for a Second Chamber, at least for some time to come. I strongly support the motion.

Mr. R. N. REID: Sir, my object in intervening in this discussion at this stage is to explain the attitude of Government as regards this important debate. While Government welcome the opportunity thus afforded to them of becoming acquainted with the opinion of this House on this extremely important question, they have decided that, except for the Indian Members of the Executive Council and the Ministers, who are free to act as they wish, the official members of the House shall take no part in the discussion.

I will run through the recent history of this question very briefly as well as the opinions that have been expressed on it.

The views of Government have been explained in various documents which have been published from time to time of late and have been made available to the public. Though members of this House are no doubt fully acquainted with them, yet it is perhaps worth while to recapitulate them here. First, there is the report, which was written for the use of the Indian Statutory Commission, by this Government on the working of the Reformed Constitution during the years 1921-27. In that report, the Local Government expressed the opinion that a Second Chamber would be a valuable part of the Constitution as a means of obtaining the opinion of the more prudent and conservative element of the people of the country and as a means of preventing rash legislation.

Mr. A. K. FAZL-UL HUQ: On a point of order, Sir. If, according to Mr. Reid, Government are not taking part in the discussion, is it necessary for the Hon'ble Member to put forward a plea for the inauguration of a Second Chamber?

Mr. PRESIDENT: Strictly speaking it is not a point of order; but will you please amplify your point? I do not see how you or any one else is affected by the Hon'ble Member's statement.

Mr. A. K. FAZL-UL HUQ: My point is that by such discussion he prejudices the views of the House.

Mr. PRESIDENT: Do you mean to say that the House is not already aware of the views of Government? Mr. Reid was simply referring to the contents of a report which are common knowledge, and perhaps you also have read that report.

Mr. A. K. FAZL-UL MUQ: Sir, Government may have changed their mind in the meantime.

Mr. PRESIDENT: Mr. Reid merely assured the House that save and except the two Indian members of the Executive Council and the three Ministers, other official members would not vote; but, he did not say that he would not reiterate the views of Government on the subject. In any case, it is not in the power of the Chair to prevent any member from exercising his right to vote in the normal course or to impose any restriction on the Hon'ble Member in the matter of his speech, so long as he is within the bounds of our rules and standing orders.

Mr. R. N. REID: Sir, my intention is merely to give a historical resumé of the opinions that have been expressed recently, and I shall quote from documents which are for sale and available to the general public. I was going on to say that the Statutory Commission was unable to come to a unanimous decision on the subject, and, in fact, they did little more than state the arguments of each side. They did, however, agree on a separate alternative proposal for securing legislative revision in the shape of a small expert body before which legislative proposals could be submitted between the report and the third-reading stages. Then there was the Bengal Provincial Committee, which was appointed in pursuance of a resolution of this House in 1928 to assist the members of the Indian Statutory Commission. That Committee, with one exception, expressed itself in favour of an Upper Chamber. Then, in their dispatch on the recommendation of the Statutory Commission, the Government of India gave their opinion that the arguments for a Second Chamber depended mainly upon local conditions and they accepted the recommendations which were then made by the Bengal Government that a Second Chamber was a suitable thing for this province.

Sir, I have no doubt that students of that dispatch will recall that a Second Chamber was recommended by the Governments of three provinces, *viz.*, Bengal, the United Provinces and Bihar and Orissa. The other provinces, *i.e.*, Madras, Bombay, the Punjab, the Central Provinces and Assam recommended that there should be no Second Chamber.

Then, the Government of Bengal expressed their views on the recommendations of the Statutory Commission in their letter of the 15th August, 1930. Their opinion was divided, but it was decided, in expressing their views, in the letter they wrote on the subject, to maintain the previous decision in favour of a Second Chamber. Government did not accept the alternative proposal, I have just mentioned, of the Statutory Commission of setting up a small committee as an arbiter in cases of difference of opinion.

Then, there was the Round Table Conference. The Provincial Constitutional Sub-Committee apparently accepted the view that there

should be a Second Chamber in Bengal. They recommended that in provinces other than Bengal, the United Provinces and Bihar and Orissa, a decision to incorporate a Second Chamber in the new Constitution should not be arrived at until the opinion in those provinces was definitely in favour of it.

More recently, the Local Government had an opportunity of expressing their opinion in February, 1932, when, in reply to a telegram from the Indian Franchise Committee, it was stated that with one exception the members of Government were in favour of a Second Chamber. The Provincial Franchise Committee gave their opinion in March last, and stated that if a group system of voting were adopted, a Second Chamber in Bengal was necessary. A minority of the Committee were in favour of a Second Chamber in any case, and all of them considered that a Second Chamber was feasible.

That, Sir, in brief, is the recent history of the discussions on this question as it would affect Bengal. Throughout, the attitude taken by Government has been, in general, though not always unanimously, favourable to the Second Chamber. As I stated at the outset, Government welcome this debate as a means of eliciting the opinion of the members of this Council on a very important question. I think, however, it would be prudent to observe that whatever the view may be that is expressed by a majority of this Council—and though that view will most certainly receive the fullest consideration—it cannot in the nature of things be finally binding on those with whom the settlement of the terms of the new Constitution in all its details will ultimately rest.

Mr. W. C. WORDSWORTH: Sir, as I am my mental constitution half Liberal, three quarters Radical, and wholly Democrat, it seems desirable that I should explain why I welcome so unradical a proposal as that put before us by Mr. Bose. The Liberal soul—I use the adjective with a capital letter—usually admires in political institutions only what proceeds from the direct vote of the people; it considers the voice of the people as the voice of God, and steadily refuses to admit that this identity may sometimes place the omnipotent in an embarrassing position. But even the Liberal mind must acknowledge that mankind in general needs and insists on Second Houses. There are a few exceptions however. Some of the new European countries have not yet worked out their political development, and of countries in Latin America San Domingo, Costa Rica, Panama and Honduras are content with a single House. Bengal sometimes holds up other countries as a model to the English of what excellent things can be done in lands where they are not in control, but never in my time has any one held up to admiration Costa Rica or Honduras as an exemplar.

Why do men require a Second Chamber? Because the experience of ages has made mankind in general more than a little dubious about

the wisdom and integrity of Lower Houses. Lower Houses may be swept by passion and panic. So of course may Upper. But if not selected or elected in the same way as the Lower, they are not liable to be swept by the same passions at the same time.

This brings us to the political principle of Distinctiveness. The public must feel that the two Houses represent them in different ways, standing for different points of view. This does not mean opposite points of view. They look at things with different eyes. Will not this be extraordinarily necessary in Bengal? Our future will be determined by the Communal Award or anything agreed on to take its place. In this difficult age we must always be discreet. But there are times when candour is necessary as well, and I shall try to be both discreet and candid. We cannot help the Award. I am not condemning it. It, or something like it, had to be in the circumstances of to-day. Very few of us like the Award. Most are prepared to accept it or something similar as the best, indeed the only, possibility open to us. But what woes it mean? It means that we are to arrive at peace and wisdom and progress as a resultant of what will look like strife between the sections of the people. Our politics are to be a jumble of Hindu *versus* Moslem *versus* Anglo-Indian *versus* European *versus* Indian Christian, of man *versus* woman. I use forcible language. I hope the facts will not be so forcible. But there are times when in our thinking and in our speaking a sharpness of outline is desirable. So we might put to ourselves this question to-day: Is it not possible that what is being ordained for us will depress the standard of public life in this province below the level that this great province is able to sustain? To my mind the one great argument for an Upper Chamber is that it may help to raise the standard of public life and help to redress the disadvantages that will be inherent in the circumstances in which we shall work.

I do not suggest that we should try to establish in Bengal something like the English House of Lords. That is an inimitable body, and ought not to be imitated. It is an epitome of the history and social peculiarities of the British people, and some of you are never tired of pointing out what very peculiar people the British are. I do not wish to enter into a lengthy history of the House of Lords, but there are one or two points in it that are pertinent to something I shall say later.

The Lords are traditionally supporters of the Throne, and in general have supported the King except when one or other tried to steal his Crown. For centuries they were necessarily men of battle rather than of counsel, and hence for centuries the thickness of bone in a peer's skull was more important than what was inside it. Hard thick heads were more useful to the State than hard strong brains. What that means; what effect centuries of conduct based on that belief must have had on the peerage, Darwin has taught us to understand.

This and other considerations that I must pass over bring us to Victoria's famous instructions to her Prime Minister, instructions that were a remarkable contribution to political science. She was writing to her Prime Minister about the creation of new peers. I cannot give the precise words, as I have not looked into Queen Victoria's letters for many years. But what she said amounted in effect to this. Those may be regarded as suitable for elevation to the peerage who are possessed of considerable private means and are not markedly deficient in intelligence. That, Sir, is a very useful suggestion. We may not wish to borrow anything else from the House of Lords, but we may well borrow this. For I am not aware that it has yet been suggested that these two qualities will be made conditions under which Lower Houses will work in India. What does Bengal want as a corrective of certain probable weaknesses I have referred to? I think, a small house of experienced men able to devote their whole time to affairs of State, men who by their position will not be liable to any suspicion or imputation that they are intriguing for places of profit under Government; men who through valuable experience in one walk of life or another will be able to bring to the work before them an attitude of mind likely to be rare in men elected to the Lower House. This brings me back to what I have called the principle of distinctiveness.

I would not support this resolution if we were asked to approve of what I may call a small Communal Award House superimposed on a larger. That would merely mean that the work would be done twice over from the same point of view. The need is for difference. I have said we can learn little from the House of Lords. But we may learn much from what has not happened to the House of Lords. I refer to the Marquess of Salisbury's Bill to reform it, an attempt that unfortunately was abandoned after the Second Reading. This Bill empowered the Crown to approve as a Life Peer any one who had held any of the following appointments: Judge of the High Court, Admiral or General, Ambassador, post in the Civil Service with membership of the Privy Council, Governor or Lieutenant Governor of a Colony or Dominion or Province. Not more than three were to be appointed in one year, and the total number of such peers was never to exceed 50. We are concerned in this discussion only with the general question: should Bengal have an Upper House? When Mr. Bose sets out to constitute it he may find some useful hints in this Bill.

Mr. A. K. FAZL-UL HUQ: My friend Mr. Bose and his supporters have been thinking that they can hoodwink the Moslem members of this House by the specious arguments that have been put forward in favour of this resolution. I think it time to tell them that they have been making the greatest possible mistake of their lives. There is a class of politicians who masquerade under the name of nationalists but to whom sectarianism and communalism are as the breath of their

nostrils. The supporters of this motion on my right apprehend that there is likely to be a sort of domination of Moslems in the new constitution of Bengal. My friend Mr. Wordsworth was almost going to give out the truth but he checked himself because he thought that the disclosure would be somewhat unpleasant. We know how things are manipulated so far as politics in Bengal are concerned. At the present moment you will hear many more things. At the present moment although the Moslems are 54 per cent. of the population they are only 27 per cent. in this House. They were, therefore, entirely at the mercy of the Government and at the mercy of the European members of this House for any measure for which the Moslems want support to carry it through the Council. Under the new constitution and under the Prime Minister's award, although ideal conditions may not be attained, there is no doubt that there will be a great improvement from the present conditions from the Moslem point of view and already there is a fluttering in those quarters which have so long enjoyed the monopoly of power that that monopoly of power must now be transferred to or at least be shared with others. For this reason my friends have suddenly discovered that a Second Chamber is extremely necessary in Bengal. The arguments that have been advanced by Mr. Bose do not convince even a child; they are very much opposed to all ideas of democracy. As my friend Maulvi Abul Kasem has pointed out it is impossible to flout the public with the example of other provinces and other countries in order to support a proposal which on the face of it is fundamentally opposed to all ideas of democracy.

The Hon'ble Member who spoke on behalf of Government had declared that Government had decided not to take part in the voting but that they would watch the opinion of the majority of the members of this Council. Do the Government realise that so far as the constitution of this Council is concerned the voting may be a mere counting of heads and can never reflect the views of the various communities in this House? Here the Moslems are in a minority in this Council but if this matter goes to a Moslem meeting you will find that the Moslems are absolutely united in opposing this resolution but since the Government is not voting and since the Moslems are going to be deserted by the Europeans and since the Hindus who are in very large number shall vote for it we will be defeated.

Mr. SHANTI SHEKHARESWAR RAY: Can the hon'ble member use the word "shall"? All Hindus may not vote for the resolution.

Mr. A. K. FAZL-UL HUQ: I am sorry I used that word; I should have used the word "may". I am very sorry; I withdraw the expression.

The position is that the vote will never reflect the views of the people of Bengal so far as this particular question is concerned. If the unanimous vote of the few Moslem members be taken to indicate the views of the Moslem community, then and then only can it be said that the Government will be in possession of the opinion of the various communities. So far as this resolution is concerned the voting will be merely a counting of heads as I have pointed out and that cannot be a proper indication of the views of the entire Moslem community, by reason of the fact that the communities are not properly represented in this Council.

Now, Sir, so far as this proposal for a Second Chamber is concerned I think I owe it to myself to say a few words by way of personal explanation. When I was a member of the Simon Commission representing Bengal I recorded my dissentient note and made it clear that I was opposed to the Second Chamber. As a member of the Provincial Committee at the Round Table Conference I also expressed similar views. As a matter of fact I never resiled from that opinion one way or the other. Sir, it is no use saying that this Second Chamber if established would be a Second House of Lords consisting of the landlords, commercial classes and others because we have been given to understand that although in the Lower House communities have not been represented in the ratio of their population it will be the Upper House that they can look forward to for redress of the inequalities of representation, and that means that in the Upper Chamber the population will be absolutely represented in the ratio of the various communities. That being so my friends ought to see that a chamber constituted like that with the various communities represented according to the proportion of their population will be a greater danger than the Bengal Legislative Council which would be constituted under the Prime Minister's award. This is a point which I wish to emphasise. I do not wish to take up the time of the Council very much but I would like to point out that there was a meeting in the Albert Hall and the proposal for a Second Chamber was also opposed by a very largely crowded house and a very largely attended section of those persons who are no doubt entitled to speak on behalf of the people. My friend Maulvi Abul Kasem has pointed out that there is a combination of the Europeans and the nationalists in the House so far as this question is concerned. I think he has forgotten to mention, and as far as can be gathered from the speech of Mr. Reid, there is not only a combination of the Europeans and the nationalists for which the Government is responsible but there is a combination between the Government, the Europeans and the nationalists.

Mr. B. C. CHATTERJEE: Sir, I am poor man. I have no rich relatives. And there is not a single *zamindar* in Bengal whom I

could call my uncle even by courtesy. So when I find myself compelled to speak in favour of my friend Mr. Bose's resolution, it is not as a protagonist of *zamindars* of Bengal. I am driven to it by reason of the situation that has arisen in Bengal. Sir, I am not a diplomat and believe in plain speaking. The real political situation to-day is this. Our Muhammadan friends of this House have made a remarkable combination with our friends who represent the so-called depressed classes of Bengal. It has been a wonderful sight to see our depressed class friends following our Muhammadan friends into the lobby on resolution after resolution. The matter to take note of is that our Muhammadan friends have been given a considerable majority by the Prime Minister; and our depressed class friends have had a very large number of seats given them by Mr. Gandhi, and the latter's gift has been ratified by the Prime Minister. Now the point is this: These gentlemen have never been able to formulate a single demand which has not been communal, but national. That is the situation which I ask every one to bear in mind. Ever since the offer of self-government by Great Britain, our Muhammadan friends—and in their wake our depressed class representatives—have not formulated a single demand which is not solely and wholly for the benefit of their community, but might be said to be for the benefit of the whole nation. And yet my friend, Mr. Huq, has had the hardihood to charge us, Hindus, with communalism! (A VOICE: Question.) Let me say to my friend Fazl-ul Huq—if he is a nationalist, and not a communalist, will he accept the united Hindu offer of a joint electorate without reservation of seats?

Mr. A. K. FAZL-UL HUQ: Certainly, come along.

Mr. B. C. CHATTERJEE: Thank you. I hope this is not the mere fleeting breath of a little enthusiasm begotten of my question. Very well, if my Muhammadan friends will agree from here and now to have joint electorates without reservation of seats, we do not want a Second Chamber. I am giving Mr. Huq another chance. Let there be no ambiguity; let him repeat his acceptance a second time and then we shall withdraw this resolution about a Second Chamber.

Mr. A. K. FAZL-UL HUQ: Provided the elections are fought clean.

Mr. B. C. CHATTERJEE: I see the lawyer is already getting the better of the patriot in my friend. He has now said something meaningless just to cover his hasty retreat from the affirmative answer he made a moment back. The first flush of enthusiasm born of my pointed interrogation is already extinct. Mr. Huq now says "no" in place of his first-born "yes." Here is an alternative offer. Let the seats, after counting out those given to the British and Anglo-Indian, be divided in equal halves between us, along with a similar division

of the services. Will you accept that? No. Now, you see, Sir, who are nationalists and who are communalists. We, Hindus, know that if there be a joint electorate, we shall be in a marked minority, but still we are willing to make this offer. We should be perfectly willing to trust our Bengali Muhammadan brethren if they came here with our united suffrages and not with merely communal votes. Well, I have now given an ocular demonstration of who are sectarians and who are nationalists. Here lies the danger which makes us ask for a Second Chamber. We have got a clear majority consisting of Muhammadans and depressed classes, and these gentlemen cannot shake off their communalism. As long as they remain communal in their outlook, so long shall we want a Second Chamber. I warn my Muhammadan friends against repeating the mistake they made in 1757 when they drove us to make an alliance with the British. They are driving us back into the same alliance in the year of grace 1932 by demonstrating their incapacity for justice and fairness, with the very first re-accession of power into their hands. It is a great pity. We would rather be with them than go into this factitious alliance with the British. But since they and their depressed class allies are persisting in their separatism, since they dare not claim Bengal as their motherland, since the cry, the life-giving cry of *Bande Mataram* cleaves to the roof of their mouth, and they can only say "*Bande* community," they leave us no other practical alternative.

Maulvi TAMIZUDDIN KHAN: Are not the depressed class representatives Hindus?

Mr. B. C. CHATTERJEE: Yes, Hindus, but for the time being they have been Muhammadanised. Can we not, all of us, recall the beautiful sight of my friend Mr. Nazimuddin going over to my depressed class friends and pouring honeyed words into their ears, and then my depressed class friends following Mr. Nazimuddin to the division lobby? I am asking them, very sincerely, from the depths of my conviction, to turn themselves into real nationalists——

Mr. PRESIDENT: I think you had better confine your remarks to the Second Chamber, Mr. Chatterjee.

Mr. B. C. CHATTERJEE: Yes, Sir, I am doing that. The little indications that we have already had of the legislative aspirations of my depressed and Moslem friends—from the Bills they have brought along already—go to show that our friends have been fast developing a new doctrine of socialism, namely, what is mine is mine, and what is yours shall be mine too. You have already betrayed a keen anxiety to pluck the money-lenders and *zamindars*. And the over-mastering apprehension you have given rise to is that you will soon be converting this Council into a *menagerie* in which the *have-nots* will always keep a watchful eye on the *haves* with the object of plundering and

sundering the latter whenever the chance comes along. It is this danger that I want to prevent. Your attitude, as I say, is evident from almost every Bill that has been brought forward by you gentlemen in this House, and it is clear that more Bills on communal lines will be brought forward in the coming sessions and so long as this attitude remains, I submit there is no other alternative left by you than for us to ask for a Second Chamber.

4-45 p.m.

Babu AMULYADHAN RAY: Sir, I shall record to-day my most emphatic protest against the creation of a Second Chamber and I should give a fair warning to the Government of India and His Majesty's Government that on the mere passing of this resolution, if passed at all by this Council as at present constituted, they should not be led to think that Bengal is behind it. They should clearly understand that a handful of landed aristocrats and moneyed interests followed by a few so-called caste Hindus apprehending—a wrong apprehension no doubt—the political influence with which they have played uptil now to their advantage, being about to pass out of their hands into the hands of the people, are anxious to have a dilatory chamber to play their political game with the object of nullifying the activities of the future provincial legislature.

I do not understand how at a time when our countrymen at large are going to take up the responsibility of the future administration and when a real democratic administrative machinery is about to be abolished Mr. S. M. Bose wants to see a Second Chamber in Bengal in the form of an oligarchy. I wish it to be most clearly understood by one and all of this House and outside it and I want to make my position absolutely clear at the very outset. Be it known to everybody that the depressed classes of Bengal do not want a spy in the shape of a Second, Third or Fourth Chamber composed of a landed aristocracy and moneyed interests. Where are those parties? Where is their patriotism? I ask them to-day whether the Second Chamber will be in the interest of the masses and if there is any necessity for it? I pause for a moment for their answer. If I were given in the Second Chamber seats allocated to the depressed classes in proportion to their population and the inequalities, injustice and insufficiency with regard to the number of seats and not the principle of electorate, of Mr. Macdonald's Award were removed, then the foundation of the Poona Pact would have been compensated. (VOICE: Who are the depressed classes? The Poona Pact gave you 30 seats but Mr. MacDonald only 10.) The depressed classes are those with whom you made the Poona Pact. That is true but not in the Round Table Conference. He or these gentlemen—Mr. MacDonald's Award was the foundation of the Poona Pact. Had there been no MacDonald's Award there would not have been any Poona

Pact. I say—the inequalities, etc., would have been compensated in the Upper House but I should bid good-bye to it from the economic point of view alone. Will Bengal be, as she is in a state of poverty, in a position to bear the burden of expenses of a House of Luxury?

Mr. B. C. CHATTERJEE: Why don't you wear loin cloth?

Babu AMULYADHAN RAY: You do it first of all, because your leader wears that dress.

Mr. B. C. CHATTERJEE: I do not believe in my leader.

Babu AMULYADHAN RAY: But you follow him.

Mr. PRESIDENT: Mr. Ray, please address your remarks to me.

Babu AMULYADHAN RAY: All right, Sir, thank you. ——or will her 10 or 12 crores of rupees be sufficient to maintain, to use the words of Mr. S. M. Bose, a House of Elders, or will she at all agree to pay a time-wasting and dilatory House of Elders?

For God's sake do not waste your money for a Second Chamber. Spend it for the education, sanitation and improvement of the people. In a province where an acute scarcity of money is prevailing all over the country, where the Ministry of Education has failed on account of financial stringency to put the Bengal Primary Education Act into immediate operation for removing illiteracy of the 90 per cent. of the people devoid of any political consciousness, where thousands and thousands of our countrymen are dying from malaria, cholera, owing to insanitary condition of the land and where the future constitution providing only with one Chamber is likely to burst on the financial rock, the establishment of a Second Chamber is against the interest of the people, and is out of the question. Will the so-called patriots of Bengal prefer a House of Luxury to the crying needs of the dumb millions?

It has been said by the hon'ble mover Mr. S. M. Bose that the Second Chamber should be constituted on national lines and not on communal lines. Nice idea! But that nice idea will not apply to this nice country until a section of our countrymen, not more than 10 per cent. of the entire population who make a show of non-communalism, can really shake off this communalism from their mind by their action. Nationalism is the cry and communalism is the mind of those gentlemen whose sole idea is to keep the political power concentrated into the hands of a clique and a group of people. I will not go very far to show the accuracy of my statement. Out of a thousand and one instances of their communalism, I will take up only two. Hon'ble members of this Council will remember starred question No. 227 answered in this House by the Hon'ble Minister in charge of the Education Department on the 7th September, 1932. The question was whether the Hindu School of

Calcutta is managed by the Government and the head master and other teachers of that school are paid out of the public revenue. The answer of the Hon'ble Minister was "Yes." Then the question was whether students of all castes of the Hindus are entitled to obtain their education in that school and whether students belonging to the depressed classes are admitted there. The answer of the Hon'ble Minister was "No." From this a series of supplementary questions arose in course of which two so-called non-communal hon'ble members of this House belonging to the so-called upper castes put supplementary questions to the effect "whether the Hindu School was not established mostly from the money raised by the Hindu inhabitants of Bengal and whether any portion of the money was given by any of the depressed classes.

Mr. NARENDRA KUMAR BASU: Sir, in the grounds given in support of, as also in opposition to, the motion brought forward by my friend S. M. Bose it has been suggested that it is undemocratic on principle to support the idea of an Upper House. I am not a very keen student of political history, but so far as I know, all the modern states have got bi-cameral legislatures. So far as Maulvi Abul Kasem's remarks and his present interruptions are concerned, I will deal with them presently: he may rest his soul in patience. So far as the remarks of Maulvi Abdul Karim are concerned, I would ask him to remember that his new-found love for the other provinces of India, and his idea that what is undesirable for the other provinces is undesirable for Bengal also, is not an idea which we have learnt to associate with him and his party. Sir, of all the sights that have delighted the members of this House, the funniest is probably that of my friend Maulvi Abul Kasem revelling in democratic sentiments. After all, to be charged with being anti-nationalist and undemocratic by a man or body of men who swear by separate electorate, who think that separate electorate is the breath of their nostrils, to be charged as being undemocratic and not nationalist by a man or men of this description is, I submit, a sight which will make the gods and men weep. It is not necessary for my present purpose—I mean for the purposes of the present resolution—to say that an Upper Chamber is always necessary; but what we have got to consider as practical men and men of business is whether in the next constitution for Bengal an Upper Chamber is necessary. From what we have heard from my Moslem friends and from what I have heard from my friend Mr. Fazl-ul Huq to-day in evident approbation of the dissenting section of the House, and from what we have heard from the distinguished representative of the so-called depressed classes of Bengal, Babu Amulyadhan Ray, it is patent to everybody that for years to come, until that mentality is given up, an Upper Chamber is really necessary. Sir, what are the objections to an Upper Chamber? It has been said that the kind of check which may be provided by a Second Chamber is not the most desirable form available. The

necessary delay is always secured by the slowness with which a great organisation like a political party is persuaded to the acceptance of a novelty. The necessary revision is best effected by prior consultation by Government of interests touched by the legislation proposed. But, Sir, with this mentality in people who have succeeded in propagating themselves up to 54 per cent. of the population, what guarantee is there that they will pause a single moment before they launch into legislation which will not be to the benefit of the minority? As was said by Carlyle of the British House of Commons "it was composed of 600 talking asses set to make laws and to administer the concerns of the greatest Empire the world has ever seen." What shall we expect, Sir, from the 200 talking asses like that in the Bengal Legislative Council? It is therefore necessary that as a sort of brake on their insensate action, there should be an Upper Chamber, and I submit that it is absolutely necessary in the vital interests of the country, in the vital interests of the country, which we Hindus have made, that there should be a Second Chamber.

5 p.m.

Mr. RAZAUR RAHMAN KHAN: Mr. President, Sir, the subject-matter under discussion to-day is of great importance. On the decision that may be ultimately taken on the basis of this discussion will depend the future progress of this province.

At the outset, it will not be out of place if I were to make a short survey of the existence of the two-chambered legislatures in the states of the modern world. Of the states that were in existence prior to 1914, and whose constitutions have not been visibly altered or affected by the Great War, we find that the United Kingdom, the United States of America, France, Italy, Mexico, and the South American States (which have based their constitutions on the Congress of the United States of America, composed of Senates and Houses of representatives), Japan, Canada and Australia have got two Chambers. This refers to the central government where it is a unitary state, and federal government where it is a federation. In the subdivision of federal governments, all the 48 states of the United States of America, two provinces (Quebec and Nova Scotia) of Canada, and the states of the Commonwealth of Australia have an Upper and Lower House.

For our purpose, we may leave out of consideration the constitution of legislatures in the central government in the unitary states and the federal government of federations. Relevant to our case will be the federated units of federal states and the provinces, boroughs or counties in the unitary states.

Such bi-cameral legislatures may be considered as vestiges of the past—something which may have had a certain utility when they

originated, but most of them have outlived their usefulness. As regards the House of Lords, I believe, most sensible people will agree with Hobson when he says: "Take a list of the most representative acts of legislative reform relating to religious liberty, freedom of the press, purity of elections, improvements in municipal government; turn to the long array of reforms of our criminal and civil codes, the building-up of our public system of education, the structure of factory and workshop Acts and other laws relating to the protection of workers, sanitary legislation, Irish legislation, and, in particular, laws attempting to repeal or modify the power of landlordism, and to secure to the people of Great Britain or Ireland a free access to, and fuller use of, their native land—there will be found hardly a single important measure belonging to any of these orders which in its endeavour to express the popular will that gave it birth, has not suffered death or mutilation at the hands of the House of Lords."

Every one sentence of this indictment is true and this may be positive of all Second Chambers which have any reality of powers. Senator St. Ledger speaking of Australia says: "the Senate as a revising or re-deliberative separate house might as well be closed up."

These are some of the indictments of the Upper House in the central legislatures of unitary states and federal legislatures of federations. There might be some justification for having a Second Chamber in central or federal legislatures. This might be to provide federating units effective voices in the government of the country. But for the units of federation and provinces, counties or boroughs of other states there can be no justification whatsoever for a Second Chamber.

Mr. H. S. SUHRAWARDY: On a point of order, Sir. We have not yet been able to find out whether the hon'ble member is supporting or opposing the motion.

Mr. RAZAUR RAHMAN KHAN: If the hon'ble member would kindly wait and listen, he will surely find what I am driving at.

It is on this account that in the post-war period, excepting in cases of federal Governments, most other governments have adopted one-chambered legislatures. Turkey, Persia, Bulgaria, Yugo-Slovakia, all the federating units of Soviet Russia, all the units of Germany, except Prussia, have single-chambered legislatures—and Prussia's experience of the Second Chamber is not very encouraging. Therefore, it can be well reasoned that the modern tendency is towards having single chambers, and rightly so.

The constitution of a country, especially of its legislature, is dependent on the conception of state that is intended to be reflected and embodied in that constitution. Whatever might be said to the contrary, the modern tendency in the world states is to recognise the ultimate sovereignty of the people.

I do not want either to ignore or minimise the actualities and the tendencies in some of the modern states of Europe such as Italy and Russia, *viz.*, to concentrate powers and effective control of government in the hands of microscopic minorities of a million and a half in a population of 38 millions in Italy and 147 millions in Russia.

The recognition of the ultimate sovereignty of the people postulates that the legislature should reflect the considered opinion of the people, and the electorate in almost all the modern states comprises the entire adult male population, and in most of the progressive states the adult females have also been enfranchised.

This being the position, let us examine how best the real intention of the people may be ascertained, and how best those intentions may be carried out when ascertained. All the objections against a uni-cameral system are based on *a priori* reasons. "Of all the forms of government which are possible among mankind," says Leckey, "I do not know of any which is likely to be worse than the government of a single omnipotent democratic chamber." It is said that a single legislature may, unchecked by the revising power of another chamber, prove itself rash and irresponsible, it may be swayed by the influence of the moment, by passion, and that every state of importance in the modern world has adopted the two-chambered system. Though true of federated states and central governments of unitary states, this is not quite true of federated units and provinces. The two-chambered system is purely a historical accident.

In the case of the introduction of two Chambers in this province, the difficulty will arise as to the powers, functions and composition of such Chambers.

The two Chambers might have equal powers, which will make for a deadlock, or one Chamber might have inferior powers than the other, in which case all the political talent will go to the more influential Chamber, and the other House will be a stagnant body of placid minds, and, to our sorrow in Bengal, we know what stagnant waters breed. As has been well said by an eminent authority, "the Second Chamber will either live in a state of suspended animation or else seek some degree of attention, it will oppose measures for which it cannot hope to gain the credit. * * * It will waste time in useless debate." If the Second Chamber agrees with the first, it is superfluous, if it disagrees, it is obnoxious. As regards the charge of rashness, in these days of modern politics no piece of legislation worth considering has been or

can be undertaken on the spur of the moment. Let us take the case of some important legislations that have been passed by our legislature under the present Reforms. I may mention the Calcutta Municipal Act, the Bengal Tenancy Amendment Act, the State Aid to Industries Act, the Bengal Primary Education Act, and the Bengal Municipal Act. All these were under the consideration of Government for over a decade, they were in some form or other before the public for a considerable period and when brought before the Council they were fully considered and debated. Now, I ask my friends on the other side of the House "what earthly use would have a Second Chamber fulfilled in these connections?" Almost any measure that is enacted becomes a law as a result of long process of discussion and analysis. Therefore, the most telling point against a uni-cameral system, that of rashness, is illusory in the present order of day. Any check by an Upper Chamber will be a premium not upon progress and improvement, but upon opposition in terms of vested interest.

Now, I hope I have made clear the falsity of the position of the protagonists of a Second Chamber on principle. I have dealt with the question of powers and functions of the Upper Chamber and have demonstrated the impossibility of the position. If we proceed to consider its composition for this province, we shall find that our position becomes worse. The Upper Chamber, as it exists in other parts of the world, is, for all purposes, hereditary in England, and, to a certain extent, in Japan. Even the most thorough-going enthusiasts of the Second Chamber will not advocate that for Bengal. Then we have the Second Chamber elected on an indirect system as now in France and previous to 1913, in the United States of America, but the basis of that election might suit a federal or central government, it will not serve for Bengal. We might have a wholly nominated Chamber as in Italy or Canada, but Senates in these states afford a warning that an executive is likely to fill vacancies in a nominated Second Chamber with its supporters. It might be elected by the first legislature as in Norway, but that, too, will also not serve our purpose.

The difficulty of communal adjustments and special representations which will have to be considered in any scheme of Second Chamber in this province, will put the nail on the coffin of the Second Chamber in Bengal.

India being what it is, and things being in Bengal as they are in actuality, the question of communal representation and special representation of Europeans cannot be ignored. We, as a community, would insist on adequate representation in any other Chamber that might be constituted in this province, reflecting our strength on the population basis. We know that the intention of the British Government cannot be to frustrate the effect of whatever powers they might give to the province by setting up two legislatures in the province,

each putting in its own way of thinking, and both between them putting an end to all future progress of the country. I, therefore, strongly protest against the proposition of setting up a second Chamber in this province.

Mr. W. H. THOMPSON: Sir, I have not a speech to make, but I wish to take the opportunity, if possible, to clear up what seems to be a misunderstanding regarding the attitude of the European group in this matter. There has been no question of our deserting—this word has been used against us this afternoon—our friends are making new alliances. Europeans in India expressed themselves in favour of the constitution of Second Chambers in provinces where it appears that the personnel is available for election and to form the electorate. We have certainly never wavered from that principle since the time the details of the reforms were first discussed. We are conservatives, we have the experience of our own country, and the experience of our colonies, where we have seen that the influence and activity of the Second Chambers have always been for good. We have also seen how things have gone wrong in foreign countries which have tried to do without a Second Chamber. We are scared stiff of half baked legislature and our apprehension of it has not been minimised by the nature of certain non-official bills regarding the jute trade and other matters which have been paraded in this house of recent years. We do not wish to rely on the Governor's veto partly because a veto is a thing which is bound to cause dissatisfaction, and partly because we feel that as time goes on the Governor's activities will become more and more predominantly social, and he will not be able, as at present, to command sound advice on all points.

5-15 p.m.

Sir, I must make it clear that we, the Europeans of Bengal, are in favour of a Second Chamber. This is not a new move on our part—in fact, we have always favoured the creation of an Upper House in this province. But, Sir, I must say frankly that not all of us on this side of the House subscribe to the idealistic idea of a non-communal Second Chamber. That is a thing, Sir, which we consider as too unpractical to be worth putting forward to the Prime Minister at Home or to the British Government. This motion does not go into the details in regard to the constitution of the Second Chamber: that is left to the constitution-mongers of the Round Table Conference and British Parliament, but it does seem to us that to suggest to them that a Second Chamber should be constituted without reference to the numbers of each community that will form its electorate or themselves find seats in it is to forget the times we live in. To ignore the existence of Hindus, Muhammadans and Europeans is to ignore practical issues. We want, Sir, to

put forward to the Prime Minister at Home some useful and practical suggestion and not some idealistic distant possibility. We want to put in his hands something which he can use, but he cannot use the suggestion of a non-communally constituted Second Chamber in the face of what he himself has said. These were his words: "The British Government consider that the composition of an Upper House in a province should be such as not to disturb in any essential the balance between communities resulting from the composition of a Lower House." He has promised that he will see that in the drawing up of the new constitution such a balance is not upset. He will not run away from that promise. We will not let him do that. We Europeans demand our share in the Upper House as in the Lower. We have not the slightest intention of giving up a single seat in either. We claim our proportion of seats and our separate electorates. We shall stand with other minorities in this matter and other minorities will stand side by side with us. While I am touching on separate electorates may I mention that if two days ago members of the Muhammadan group had come to us and claimed support for separate electorates in the Corporation as such, on that plain issue we must have stood by the minorities pact? Actually we were not approached and we heard that the matter had been compromised on other considerations. I hope that what I have said will clear the air a bit. As regards this motion we support a Second Chamber because we think it right. We do not support any idealistic remote possibility of a non-communal Upper Chamber.

Babu SATYA KINKAR SAHANA: Mr. President, Sir, I rise to give my whole-hearted support to the opportune and very important motion of my friend Mr. S. M. Bose. I hope that from the cogent arguments put forward by Mr. Bose in support of his motion the whole House would have been fully convinced that a Second Chamber is essentially necessary not only for the proper working of the Reformed Legislature of autonomous Bengal but for the very existence of the people, both Hindus and Muhammadans, but I am painfully disappointed.

Sir, Mr. Bose has made it clear that political philosophers have considered that Second Chambers are necessary in democratic constitutions as internal safeguards and that in the constitution of most of the advanced countries of Europe and America Second Chambers have exerted a balancing influence.

It stands to reason that it should be so. Two contradictory forces working on a body keep it in balance. If there be no centripetal force but the centrifugal force alone be pushing on the planets, the surprisingly beautiful solar system will be nowhere in no time. Sir, one ancient Sanskrit philosopher has attributed creation to the working of two contradictory forces— রাগবিরাগয়োর্ভক্তি—creation is the outcome of the two contradictory forces of attraction and repulsion.

Sir, I hope that it is an admitted fact that the contradictory forces of progression and retrogression or conservation working simultaneously keep societies and nations as well as individuals in their orbits. Progression is often associated with youth and conservation with age—though we sometimes come across youth in grey hair and age in black hair. We all know, Sir, that the go-go policy of progression blindly followed often leads societies or nations or individuals, on the primrose path, to the eternal bonfire or the bottomless abyss, but the power of conservation holding them fast often avert the calamity.

Sir, in this age of triumphal procession for youth, age with its cautious steps has been pushed to the background and the go-go spirit is running a race even in this present legislature. It will not be very wrong to presume that in the future legislature of autonomous Bengal the triumphal car of youth, frenzy firing its wheels, will crush halting and cautious age to the ground and following the go-go inspiration lead the country to where God alone knows.

Sir, considering all this I think that a Second Chamber will at least exert some healthy check on the frenzied race and keep the people of Bengal, both Hindus and Muhammadans, in their orbits.

Then, Sir, though there are some who entertain doubt as to the suitability of Western democracy in our country, there is no help for it: we are already in for democracy and going to get more of it in the near future. But our democracy with separate communal electorate will be as good as a সোনার পাথর বাটী—a stone cup made of gold. Whatever that might be, though the rose-bud of democracy that we are going to have in our country will be infested with the canker of separate electorate hindering its blooming forth, the prickly thorns will be there untouched by the canker, and the cautious hand of a Second Chamber which is expected to blunt the edge of at least some of the thorns is considered highly desirable.

With these few words I support the motion of Mr. Bose with all the earnestness that I am capable of.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I rise in support of the motion of Mr. S. M. Bose.

The mother of Parliaments—I mean the British Parliament—has still an Upper Chamber. The exact constitution of our coming legislature is yet in the womb of futurity. We do not know as yet in what form it will come. But it is evidently being drafted by British politicians; therefore it is only natural that it will bear the marks of the British constitution. So we expect an Upper Chamber for our legislature.

History can be cited against this motion. I know in 1832—to-day we are in 1932—the House of Lords opposed the famous Reform Bill of England. And it was a Bengalee who was given the chair of a foreign ambassador in that historic discussion of British politics. The great Raja Ram Mohon Roy on that memorable occasion questioned the utility of the House of Lords and adversely criticised its obstinacy in passing the Reform Bill in unmitigated terms. The Raja said, referring to the House of Lords in connection with the passing of the Reform Bill in England in 1832. Sir, I quote his own words: "The struggles are not merely between reformers and anti-reformers but between liberty and tyranny throughout the world, between justice and injustice, and between right and wrong. But from a reflection on the past events of history, we clearly perceive that liberal principles in politics and religion have been long gradually but steadily gaining ground, notwithstanding the opposition and obstinacy of despots and bigots." Here the Raja means the "opposition" and "obstinacy" of the then members of the House of Lords. And he calls them "despots" and "bigots."

Mr. Bose will pardon me if I quoted the great Raja to him. If we want an Upper Chamber after the House of Lords certainly just 100 years after 1832, we do not want "despots" and "bigots" in our Upper Chamber.

At any rate (*a*) the Upper Chamber is admittedly a dignified structure, while (*b*) the Lower Chamber is a more efficient structure of legislatures in the Western countries in general and in England in particular. So our Lower Chamber which will be composed mainly of the real representatives of the people will certainly have more power than our Upper Chamber in the matter of legislation. There can be no doubt about it. But our Upper Chamber also is expected to function on the present liberal principles of modern politics. There will be no place for "bigots" and "despots" in it. If it is suggested to be the House of Elders—as experienced natural leaders of the people—it should also be suggested that these elders should be primarily the men of the nation first. They must be free from narrow communalism which does not exist anywhere in modern politics in the world in the same way as we unfortunately have it in our current politics in India.

I strongly object to communal representation in Upper Chamber. Rather, I am prepared to forego the luxury of an Upper Chamber than to have it constituted on communal basis.

Sir, with these remarks I support the motion.

(At 5-25 p.m. the Council was adjourned for prayer and it reassembled at 5-40 p.m.)

Reverend B. A. NAG: As a member representing a minor minority community I feel I must support the resolution for a Second Chamber.

If the Lower House were constituted on a national basis and not on a communal basis, there might have been some justification for the objections raised against a Second Chamber. But the constitution of the Lower House being what it is I am afraid we must need another house as a brake on the Lower House. All the objections which have been raised have been raised against the Second Chamber where the elections of the Lower House are on a national basis. Presumably there is no country where the Lower House is constituted on communal lines, as in Bengal, and I have not read of any country anywhere where the constitution of the Lower House being communal, a Second Chamber has not been felt to be absolutely necessary. Mr. Thompson referred to one or two things which demanded—and I agree with him—the existence of a Second Chamber to be a brake upon our affairs. A question has been raised as to what the constitution is to be. That is not our concern just now. There will be time for us to discuss the constitution. At present what we need to do is to say whether we need a Second Chamber or we do not. Question might also be raised that money is necessary. I would rather say that we cannot have any good government without money and money to make the government of the country better is well spent. From all points of view, particularly from the point of view that the Lower House is so absolutely communal, members belonging to the minority communities must demand such an institution as the Second Chamber. With these few words I support the resolution before us.

Mr. PRESIDENT: As the time at our disposal is short and there are still many members who want to speak I hope members will be very brief.

Maulvi TAMIZUDDIN KHAN: I am rather reluctant to take part in the debate on this resolution on account of the short time that remains. However, speaking on this resolution I must say that it was an unseemly sight to see men for whom I have the greatest respect, men like my friends Mr. B. C. Chatterjee and Mr. Narendra Kumar Basu taking up an attitude of which I am sure they will feel ashamed, when they think over the matter in their cool moments. I did not understand what Mr. B. C. Chatterjee wanted to say in support of the resolution moved by my friend Mr. S. M. Bose. As regards Mr. Narendra Kumar Basu, in his enthusiasm for a Second Chamber he altogether ignored facts. In criticising some statements made by Maulvi Abdul Karim, Mr. Narendra Kumar Basu said that it was an unseemly sight to see a man who swore by separate electorate accuse men like Mr. S. M. Bose of anti-nationalism. Of course, most of the Moslem members are in favour of a separate electorate and that is a position which they take up not on account of any love for separate electorate but on account of the position to which they have been

driven by the nationalism of the other section. But Mr. Basu conveniently ignored the fact that Maulvi Abdul Karim was at no time an advocate of separate electorate and he did him a great injustice when in his enthusiasm he made that unjustifiable remark. Now as to whether there should be a Second Chamber or not, there has already been a long debate upon this. It has been argued that in almost all countries there are Second Chambers. This is true as far as federal legislatures are concerned. But the question of the provincial legislatures is entirely different. I may point out that so far as the provinces constituting a federation are concerned it is not always the case that there is a Second Chamber in each of them. For example, in Switzerland the provincial legislatures are always unicameral; also in the German provinces the legislatures are unicameral. Perhaps you can say that it is futile to cite instances of these independent countries. Therefore, I shall cite the instance of a country the government of which seems to be the ideal of the hon'ble gentlemen who are members of this Council, I mean the Dominion of Canada. There, all the provinces, with the exception of two, have uni-cameral legislatures and if we look at the general tendency of the times throughout the world it is in favour of unicameral legislatures. As has been pointed out by my friend Mr. Amulyadhan Ray, in Bengal a Second Chamber is out of the question from the financial point of view. As far as its pecuniary condition is concerned the Bengal Government is absolutely in a helpless condition and it is surprising to find that still the Government is going to lend its moral support to Mr. S. M. Bose's resolution. But if we look at the question carefully, there is no doubt that it would bring in financial disaster to the province.

Dr. NARESH CHANDRA SEN GUPTA: The debate opened a discussion upon which a great deal might be said which has been left unsaid and a great deal has been said which ought not to have been said. I shall confine myself to two points. In the first place, a number of speakers in supporting the resolution have raised the question as to what sort of Second Chamber they are going to have. Unfortunately, however, they have not embodied anything like their ideas in the resolution. The resolution is in favour of a Second Chamber, pure and simple and I want to draw attention to the fact that a Second Chamber may be of all sorts. In the States of Canada the Second Chambers are all nominated. In Australia in many places they are elected partly, but in other places they are wholly nominated. That being so, a blank cheque is the last thing which this Council should give to the Government. The second thing is the anxiety of some of the speakers for checks upon the popular legislature. I am familiar with the arguments of the 18th and 19th century philosophers whom some of my friends have quoted here; but in quoting their observations, about

the merits of which I shall say nothing, they forget that in the Council that is going to be constituted in Bengal there will be an amount of internal check with which I shall be surprised if the Council will be able to carry on its business. It is divided into so many groups and combinations of groups that it will provide any number of checks and there will be no party majority which can be assured of carrying from time to time any kind of reform, not to speak of revolutionary reform. Having regard to that it is absolutely preposterous to quote the opinion of those who speak in favour of a bi-cameral legislature as a check on hasty legislation. Our legislature will be like the car of Juggernut stuck in the mire of communal award: it will not move and will never move: you will require a steam engine to pull it through and not a brake to pull it up. Much has been said about the communal award and it has been said that that necessitates a Second Chamber. I believe the award to be a great wrong and that those who are standing by it are under a great delusion. But two wrongs do not make a right. Because there has been the communal award, those who are afraid of the majority which is likely to be in this Council should not take a jump into the dark like this.

Rai Bahadur KESHAB CHANDRA BANERJI: Mr. President, Sir, I record my whole-hearted support to the resolution which has been so ably moved by Mr. S. M. Bose. The resolution seeks to provide for the establishment in Bengal of an Upper Chamber when the new Constitution comes into existence. Arguments have been advanced both in favour of and against the proposal and to my mind Bengal has reasonable grounds to ask for a Second Chamber in view of her diverse political, secular and religious interests. The Upper Chamber will be merely a balancing body to put a check upon irresponsible legislation as the House will consist of men of sober views, statesmen of proved political sagacity, veterans of calm judgment, personages of high social standing, jurists of great experience, publicists of mature thinking and men of personal distinction, capable of guiding its deliberations through proper channels untrammelled by communal or sectarian prejudices. The arguments in favour of an Upper House in this Province far outweigh those against it for the advantages calculated to be conferred by it are too pronounced to be disputed.

I simply conclude by referring to the remarks which have been made by my friend on the left. It will perhaps be remembered that the Provinces Constitution sub-committee of the first Round Table Conference recommended a Second Chamber for the provinces of Bengal, Bihar and Orissa and the United Provinces only. The resolution has been moved at an opportune moment as the question will be decided at the third Round Table Conference now in session in London.

(The member having reached his time-limit resumed his seat.)

Mr. H. S. SUHRAWARDY: I congratulate Mr. S. M. Bose, neo-nationalist,—for has not Mr. Bose been admitted into the bosom of nationalism by Mr. J. N. Gupta—only I fear that the nationalists outside will repudiate his claim—for having introduced the resolution, for without it, it is quite possible that the views of that portion of Bengal that will count would have been ignored and would possibly have remained unknown. Mr. Reid wishes to know what are the views of this Council to-day and he will possibly abide by it. But he really ought to pay attention not to the views of this Council as at present constituted, but to the views of those who will have the largest influence in the Council of the future. To-day I feel very happy because I find that the entire Mussalman group as a body is against the Upper Chamber. This is the group that I hope will dominate politics in the future constitution, and that being so, it is desirable that the wishes of this group should be considered lest the establishment of an Upper Chamber will lead to a perpetual fight between the two bodies. A bi-cameral legislature is a luxury and this wretched province which is even more bankrupt than Sind when it comes to be separated can scarcely bear the expenditure of an Upper Chamber. I have much more to say, but as the sands are about to run out, I shall reserve my remarks for a future opportunity, if necessary.

The motion was then put and a division taken with the following result:

AYES.

Austin, Mr. J. M.
Banerji, Rai Bahadur Keshab Chandra.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Burn, Mr. H. H.
Chatterjee, Mr. B. C.
Cohen, Mr. D. J.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Datt, Rai Bahadur Dr. Haridhan.
Ghose, Rai Bahadur Sasanka Comar.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Gupta, Mr. J. N.
Lesson, Mr. G. W.
Mason, Mr. G. A.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Mortimer, Mr. H. R.
Nag, Babu Suk Lal.
Nag, Reverend S. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Norton, Mr. H. R.
Ordish, Mr. J. E.
Petre, Mr. R. F.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hunuman Prosad.
Ray, Babu Khetter Mohan.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Ray Chowdhury, Babu Satish Chandra.
Rees, Mr. J.
Roy, Babu Haribansa.
Roy, Babu Jitendra Nath.
Roy, Mr. Sailendra Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Thompson, Mr. W. H.
Wordsworth, Mr. W. C.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Ali, Maulvi Syed Nausher.
Baksh, Maulvi Shaik Rahim.
Baksh, Maulvi Syed Majid.
Bal, Rai Sahib Sarat Chandra.
Banerji, Mr. P.
Barua, Rai Sahib Panchanan.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Khan Bahadur Maulvi Abdumuzzaman.
Chaudhuri, Maulvi Syed Osman Haidar.
Choudhury, Maulvi Nurul Absar.
Choudhury, Haji Badi Ahmed.
Chowdhury, Maulvi Abdul Ghani.

Eusufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. C. M., Khan Bahadur.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hosain, Nawab Musharruf, Khan Bahadur.
Huq, Mr. A. K. Fazl-ul.
Karim, Maulvi Abdul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Lal Muhammad, Haji.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Nazimuddin, the Hon'ble Mr. Khwaja.
Quasem, Maulvi Abul.
Rahsem, Mr. A.
Rahman, Maulvi Azizur.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray, Kumar Shib Shekhareswar.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hoseni.
Saadatullah, Maulvi Muhammad.
Samad, Maulvi Abdus.
Sarker, Rai Sahib Rebeli Mohan.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Sircar, Dr. Sir Nilratan.
Solaiman, Maulvi Muhammad.
Suhrawardy, Mr. H. S.

The Ayes being 44 and the Noes 46 the motion was lost.

6 p.m.

Motion for adjournment.

Mr. PRESIDENT: Order, order. We will now take up the adjournment motion of Mr. Syamaprosad Mookerjee, which runs thus:—

"This House do stand adjourned to consider a definite matter of urgent public importance, namely, the situation arising out of the alarming state of health of Srijut Subhas Chandra Bose and Srijut J. M. Sen Gupta, now detained as State prisoners under Regulation III of 1818, the intensity of the public feeling in the matter being amply evidenced from the recent Town Hall meeting."

Mr. SYAMAPROSAD MOOKERJEE: I beg to move the motion, Sir, which you have just read out. I do not think it will be necessary for me to make a long speech: neither, Sir, do I think that I am moving a resolution on which there can be any room for difference of opinion amongst members of this House. Sir, it is not my purpose to refer at all to any controversial questions while moving this resolution. It is not my intention to refer to the evil effects or otherwise of the civil disobedience movement, nor is it my intention to enter into the circumstances under which these two distinguished sons of Bengal were arrested by Government under Regulation III of 1818. But I shall put my resolution entirely on humane considerations. The fact is admitted that the state of health of these two gentlemen, who command the affection and respect of a large section of our countrymen, no matter what their political views are, the present state of health of these two political prisoners requires that something should be done either to set them at liberty or, if that is not possible, to make it feasible for them to go to some health resort, where they will be able to regain their former health. Sir, I do not think I am exaggerating the position when I say that the serious and alarming illness of these two distinguished sons

of Bengal is a national concern. It cannot be the intention, however remote it may be, of anybody, to whichever party he may belong, that they should lose their lives under the present circumstances. So far as Srijut Subhas Chandra Bose is concerned, as you are aware he was medically examined by one of the doctors approved by himself and another, or I think two, nominated by the Government of Madras when he was interned over there. The unanimous report of the board of medical advisers was to the effect that he was suffering from the foul disease of tuberculosis and they recommended that he should be immediately transferred to some sanatorium for the purpose of recouping his health, if possible. As a result of this report I suppose he was transferred to Bhawali, where he is at present staying. In answer to a question put by an hon'ble member of this House to-day, Government have replied that they are aware that by the 15th December the sanatorium at Bhawali is going to be closed; but Government have not yet received any information as to what is going to happen to Srijut Subhas Chandra Bose after that date. Sir, I would appeal to the Government for once to look at this matter from a broad point of view. I would ask the representatives of Government, who will reply to this motion to-day, to bear in mind that this is a matter which has caused considerable alarm in the mind of every section of the community and this has been amply evidenced by the public meeting that was held at the Albert Hall the other day.

6-15 p.m.

I am not going, Sir, to refer to the detailed proceedings of that meeting, but I should like to refer to one single sentence which our hon'ble friend Mr. Fazl-ul Huq said at that meeting. Apparently, Sir, Mr. Fazl-ul Huq was moved by the extent of the feeling which was exhibited at the meeting, and he is reported to have said that he wished that the Hon'ble Mr. Prentice had been present at the meeting, so that the latter would have felt the strength of public anxiety and indignation that was manifest at that meeting. Sir, I think that summarizes in a nutshell the present position.

I would ask Government to consider another aspect of the question. Perhaps Government will say that they (*i.e.*, Messrs. Bose and Sen Gupta) are prisoners under the control of the Government of India, and that it is not possible for the Local Government either to interfere or to make any proposals with regard to their future movements. May be, technically it is true. But at the same time the Government of India Act is not so rigid as to prevent the Local Government from making any representation to the Government of India to the effect that in view of the special circumstances of these two cases, certain steps should be taken to secure the preservation of their lives; and it is in order to strengthen the hands of the executive that I have brought

forward this motion to-day. I should like to assure Government that it has not been my intention to move this motion by way of a vote of censure, because, up till now, so far as we can see, Government have not refused to take any steps to ameliorate the condition of these two State prisoners and we need not pass our judgment in anticipation. All that we say is that if you, the responsible members of the Government of Bengal, would take steps in the direction that we are suggesting, you will have, if I may say so, the unanimous support of the non-official members of this House behind you. (Hear, hear.)

Sir, I do not know what Government propose to do, but, as I have said, both with regard to Mr. Sen Gupta and Mr. Bose, that either they should be released, or, if it is impossible to release them at once, they might be sent to some healthy sanatoria. We feel Mr. Bose's life may yet be saved if he is sent to Switzerland.

As regards Mr. Sen Gupta, we have read in this morning's papers that Government have allowed him to walk about within the precincts of the Medical College, of course with police guards. We must be thankful to Government even for this small mercy, but it is abundantly clear that this, by itself, is hardly sufficient. As I have said, Sir, it is not my intention to attack Government on this issue at all; neither is it my intention to make a long speech this evening. I think I have said enough to make Government pause and ponder over this question and I venture to express the hope that something definite will be done by them before it is too late.

Maulvi ABUL KASEM: I rise to add my humble voice of support to the motion that has been moved by my friend, Mr. Syamaprosad Mookerjee and I only regret that an occasion has arisen for such a motion in this House. I understand, Sir, that the Government have not refused to consider the question, but they are slow to come to a decision. This halting policy and hesitation have forced Mr. Syamaprosad Mookerjee to come to this House with this motion for adjournment. I can only add that in the interest not only of these two gentlemen, but also of Government themselves, steps should be immediately taken to see that they are restored to health. Sir, I cannot understand how Government are going to take upon themselves the responsibility for the health, and, I must add, danger to life of these two gentlemen. My proposal would be, in the first place, to release them from surveillance or from the prison. I say so, Sir, because whatever might have been the reasons, and, I believe, there were good reasons, so far as Government are concerned, to put them under Regulation III of 1818, but, in the present state of their health, I do not think those reasons still exist. But if that is not possible, as my friends have said, why not let them choose their own place of residence and be treated by physicians of their own choice, so that Government might be relieved

of the responsibility both for their lives and for their health? If necessary, Sir, I hope Government would consent to keep them under observance or surveillance in any country in the world where they may be willing to go.

With these words, Sir, I appeal to the Treasury Benches either to release them or to make proper arrangements for their treatment.

Mr. A. K. FAZL-UL HUQ: Sir, after the speech that has been delivered by my friend, Mr. Syamaprosad Mookerjee, and the elaborate and lucid manner in which he has stated the case which, I believe, we all have at heart, it is hardly necessary for me to make any speech. But I rise, Sir, to emphasise one point which, I am sure, must have been noticed by the official members of this Council. It is very seldom, Sir, that we, the non-official Indian members, combine in a unanimous manner on any point at issue. At the present moment, I feel absolutely certain that if the vote of the Council is taken, there will not be a single dissentient Indian member, and if unanimity of opinion means anything, I believe, Sir, a case has been made out for the Local Government as well as for the Government of India to reconsider their attitude towards these two gentlemen who are, at the present moment, admittedly in a very dangerous state of health. The two requests that have been made are of such a modest character and are so entirely dissociated from political considerations that I hardly believe that even Government, with all their dilatoriness, would find it difficult to come to a decision. The decision must be come to at once, otherwise it may be too late, too late to be writ large, like many other decisions, on Government. Let us hope, Sir, that in this particular instance, after the demonstration that I saw at the Albert Hall meeting, and after the unanimous opinion that is being expressed this evening in this House, Government will take immediate steps to absolve themselves of all responsibility so far as the health of these two gentlemen is concerned. I whole-heartedly support the suggestion contained in this adjournment motion.

Maulvi ABDUL HAMID SHAH: (The member spoke in Bengali in support of the motion.)

Babu JATINDRA NATH BASU: Mr. President, Sir, there is one aspect of the question that has been brought to the notice of the House very clearly by my friend Mr. Syamaprosad Mookerjee, and which certainly requires careful scrutiny. These two gentlemen are under detention: there is no denying this fact. They are not convicts; neither are they accused persons under trial for a criminal offence; but all the same they have been detained without trial, under certain extraordinary powers in the alleged interests of the State. But to the

general public the motives behind such action do not appeal inasmuch as they have not been incarcerated under the ordinary law of the land. Over and above this, it is common knowledge that they are seriously ill. If they were in a position to have additional facilities for obtaining expert medical advice and treatment, if they could be allowed to have a change of climate and surroundings in order to regain their health, that would have been something at least. I submit, Sir, that such detention will accentuate the public discontent in the country—especially so, as the persons detained are seriously ill. Every one who is not a convict has a moral right to decide for himself as to the best method according to which he should be treated; and I trust, Sir, that Government will not fail to grant them all facilities for availing themselves of means for restoring them to health. Government should in any event see that the lives of the detained persons are not placed in danger. Detention in itself reacts on the health of the detenu, and this should be kept in mind in the case of persons detained without a charge against them and without trial.

In the particular cases under discussion the seriousness of the maladies is not called into question. What has been urged before this House is that they should be placed in a position to have the usual facilities for treatment to which they are rightfully entitled.

Sir, shortly after Regulation III of 1818 was promulgated, one of the first individuals who was dealt with under its provisions was an Englishman. So far as I can recollect, his name was Mr. Silk Buckingham who incurred the displeasure of the then Governor-General, the Marquess of Hastings. How was he dealt with? He was sent out of India probably at the company's expense to his own country, where he could move about freely without any restriction. But look at the picture here at the present moment. The detained persons are kept in jail like prisoners without any freedom. I would call your attention to the difference.

6-30 p.m.

I would urge Government to consider how the public look at the situation. Here are two prominent men, who have not been accused of any criminal offence. They have not been convicted. They are not undertrial. But they are suffering from serious ailments. Government should see that they have such facilities as a free man could have availed himself of for his medical treatment and for the improvement of his health.

Kumar SHIB SHEKHARESWAR RAY: The question has been very ably dealt with by the mover of the motion and there is very little left for me to add to what has already been said on the matter. I should, however, like to point out to the Government as the president

of a recent public meeting held in Calcutta in this connection that the public feeling is very strong over the vague and halting attitude of the Government with regard to the nature of medical treatment of these two eminent political prisoners, especially when their lives are known to be in danger. If the Government has any respect for public opinion, it should lose no time in taking prompt and proper measures for the safety of these two valuable lives.

Mr. W. H. THOMPSON: I am at some disadvantage when this resolution is put before us and we are asked to vote for it. It seems to us that if sufficient evidence was given to Government and Government found that these two gentlemen were so ill that they ought to be let out, Government should and would let them out. But it seems to me extraordinary that the legislature should be asked to give a decision on what is a point of medical fact without any evidence being placed before it. It would be reasonable for us to request Government to decide upon the medical evidence. The mover asks us to vote on this question of fact and I feel that this is outside the scope of a legislative body. May I ask the Government if they will let us know whether they have had sufficient inquiries made and whether they have satisfied themselves whether these two gentlemen are really seriously ill or not?

Mr. C. P. HOGG: It was with considerable relief that I heard Mr. Mookerjee say that he has no intention of introducing controversial matters into this debate. He would not mention either the reason for which these two gentlemen were placed under detention nor would he discuss the question of their release. Now it is a matter of common knowledge that the health of these two State prisoners has been the cause of some anxiety in recent months, not only to Government but to their friends. I can only remind the House that doctors of eminent standing were sent from Calcutta to Madras to examine Mr. Subhas Chandra Bose and he was then sent to a sanatorium which it was believed would be a very suitable place for his condition. Recently, further reports have been received which indicate that a fresh examination should be made. Now, Sir, it would hardly be right or proper to state in this House the precise character of medical reports on an individual. I would suggest indeed that it would be altogether improper, and I will therefore ask the House to accept this assurance that the Government are aware of the precise condition of both these gentlemen.

Mr. NARENDRA KUMAR BASU: Is their condition serious?

Mr. C. P. HOGG: I shall come to that in a moment. With regard to Mr. Subhas Chandra Bose there has been amongst the medical

advisers a difference of opinion and it has just been decided that a board will meet to examine him in the immediate future and that board will contain two eminent doctors from Calcutta and two doctors from the United Provinces. Until Government receive the report of this board and the Government of India have had time to consider the report of that board it would not be possible to decide where Mr. Bose should be sent. But I think I can safely assure the House that the place of his detention will be selected in accordance with the medical requirements of the situation.

With regard to Mr. J. M. Sen Gupta, Government, I think, took all the steps possible to meet his case. When he came out from Home and was placed under detention—I think in January last—he was sent to Darjeeling. It was discovered that that place was hardly suitable for him and within seven days he was removed to the plains—Jalpaiguri. Thereafter on medical advice he was brought down to Calcutta and he is now under the treatment of some well-known doctors in the Medical College Hospital. He is, I believe, making progress there and I have good authority for stating that his condition has improved and he is now able to take exercise outside.

With regard to the future, I need hardly say that it must naturally be a matter of great concern to the Government of Bengal and also to the Government of India that the health of State prisoners should be safeguarded in every possible way and I can only assure the House that every possible step is being taken to secure the very best medical advice and to act upon it wherever it is possible to do so.

The immediate decision we want with regard to Mr. Bose will be the selection of a sanitarium where he may go after the Bhawali Sanatorium is closed on the 15th of December. That subject is at present receiving the attention of the Government of India and a decision will be made probably as soon as the medical board has given an opinion.

With regard to Mr. Sen Gupta, we hope and trust that his health will improve in the immediate future. When and where he will be sent after his discharge from the Medical College Hospital has, as far as I know, not yet been decided. But it has always been the practice of Government in the past and will be the practice in future to take into account every medical consideration in deciding what should be done regarding the custody of State prisoners.

Mr. J. N. GUPTA: May I have an assurance that the steps which Government propose to take will be taken as quickly as possible? If the two gentlemen who seem to be suffering from pretty serious illness are found by the board to require a change, may I hope that an attempt will be made to avoid the usual delay which takes place at present in

sending papers from one Government to another, so that a decision may be arrived at before the cases really take a serious turn? This is a matter which is really very urgent and I hope Government will take prompt steps in the direction desired.

Mr. R. N. REID: In answering Mr. J. N. Gupta's remarks I can only say that these persons are in the hands of doctors and are having constant attention every day. I do not think that their cases are so desperately urgent as he seems to indicate. I am sure that if they were so, in any case the Government of India, either in consultation with the Government of Bengal or by themselves will take active and immediate steps whenever those are necessary. Mr. Mookerjee touched on the point that these two gentlemen are prisoners of the Government of India; that is perfectly true but that does not mean that this Government are indifferent, as so many in this Council seem to think. They are quite alive to their responsibility as regards both of these prisoners, because both of them belong to this province. Anyhow I may say that this fact that this discussion has taken place will be reported to the Government of India, and apart from that I would assure the House, as Mr. Hogg has already done, that Government are not indifferent to the condition of these two prisoners and every step has been taken and the best advice has been obtained throughout the course of their detention. Under these circumstances perhaps the mover of the motion will feel disposed to withdraw it.

Mr. SHANTI SHEKHARESWAR RAY: I can say that the statements made by Mr. Hogg and Mr. Reid will be received with great disappointment not only in this House but throughout the country. We expected that in response to the public feeling Government will welcome this opportunity to sanction the release of two of our beloved leaders, but on one point the Government spokesmen are clear that they are not to be released but detained. That will be an unwelcome piece of news to all. We are now more or less helpless in the matter although the leaders enjoy great popularity in the country; their illness is a concern of every household in the province. We feel that we can do very little at this moment. But we can at least represent in this House the feeling of the country and I think we are entitled in spite of what Mr. Thompson thinks that it is not the duty of the legislature to deal with such matters. With these words I make a final appeal to Government to reconsider their position and not to keep these two great leaders, at least in their present condition of health, separated from the bosom of their family.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I am not in charge of this portfolio. I am told by those who are dealing with

this resolution in the absence of the Hon'ble Member that there is one aspect of the question which should be taken into consideration by the House and that is this, that the Government of Bengal, owing to the shortness of time, could not consult the Government of India in the matter. Therefore nothing more definite than what has been said by Mr. Hogg can be done. I hope the mover will take this into consideration and refrain from pressing his motion.

The motion was then put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m., on Monday, the 28th November, 1932, at the Council House, Calcutta.

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